

Public Utilities

FORTNIGHTLY



May 23, 1946

JAPAN'S TWO-BIT POWER OUTFIT

By Lieutenant (jg) Richard Hellman

« »

New Power Demands Will Spring from Postwar Industry

By T. N. Sandifer

« »

Charges in Lieu of Taxes

By Robert E. Stromberg

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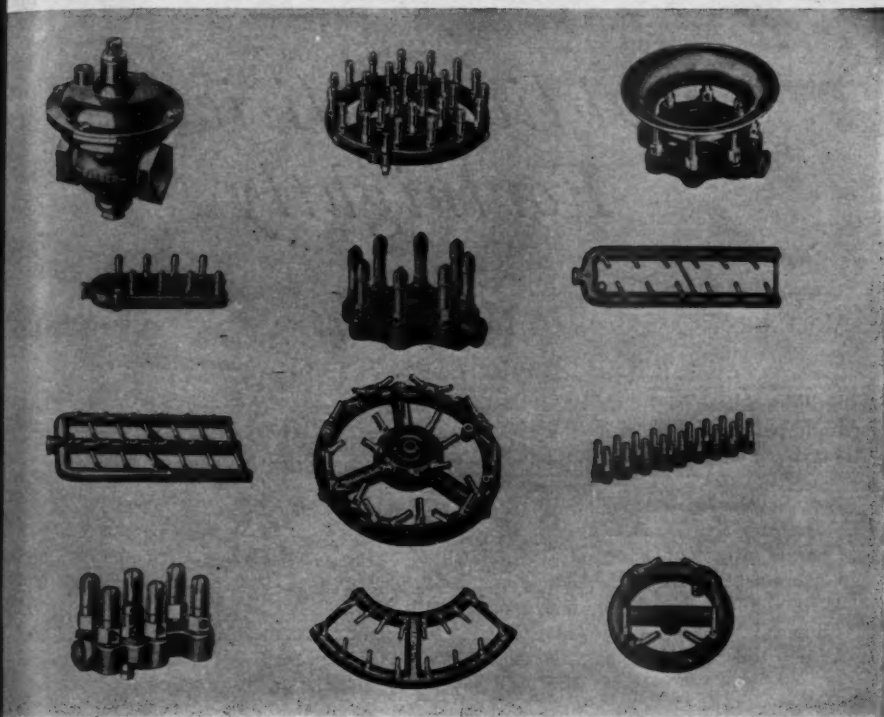
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Public Utilities Fortnightly



VOLUME XXXVII

May 23, 1946

NUMBER II

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Q This magazine is an open forum for the free expression of opinion concerning public utility regulation and allied topics. It is supported by subscription and advertising revenue; it is not the mouthpiece of any group or faction; it is not under the editorial supervision of, nor does it bear the endorsement of, any organization or association. The editors do not assume responsibility for the opinions expressed by its contributors.

PUBLIC UTILITIES REPORTS, INC., PUBLISHERS

Publication Office CANDLER BUILDING, BALTIMORE 2, MD.
 Executive, Editorial, and Advertising Offices MUNSEY BUILDING, WASHINGTON 4, D. C.
 (Address all communications concerning the FORTNIGHTLY to Munsey Building, Washington 4, D. C.)

PUBLIC UTILITIES FORTNIGHTLY, a magazine dealing with the problems of utility regulation and allied topics, including also decisions of the regulatory commissions and courts, preprinted from *Public Utilities Reports, New Series*, such Reports being supported in part by those conducting public utility service, manufacturers, bankers, accountants, and other users. Entered as second-class matter April 29, 1915, under the Act of March 3, 1879. Entered at the Post Office at Baltimore, Md., Dec. 31, 1936; copyrighted, 1946 by Public Utilities Reports, Inc. Printed in U. S. A.

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MAY 23, 1946

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Pages with the Editors

IT may have been all the fault of that delightful operatic team of Gilbert and Sullivan, but somehow we, as a nation, have not always been able to focus our minds on a very accurate picture of the Japanese people. We have gone to extremes and even now we seem confused as to just where the little men of Nippon are supposed to fit in the divine scheme, if they fit at all.

BEFORE the Japanese invasion of Manchuria in 1932, the average American impression of the Japanese empire seemed to be flavored with the Gilbert and Sullivan touch. We saw the Japanese as an interesting, industrious but slightly comical people (in a humorless sort of way), struggling valiantly from an almost primitive state of isolation (which predated the visitation of Commodore Perry) towards the status of a mildly civilized and modern nation with a first-class navy.

AFTER the "Chinese Incident" and especially after the treachery of Pearl Harbor and siege of Bataan, our picture of the Japanese swung violently in the other direction. Overnight, they jumped from comedians to villains, ruthless and diabolically clever. They combined all the efficiency of Nazi Germany with the cunning barbarism of sophisticated oriental savagery.

THEN came the admission of Japanese defeat. A dreary succession of photographs and news stories, depicting the shambles and ruin of a prostrate and conquered nation, followed. This jarred our conception of an efficient and powerful fighting Japan—one which measured every step and took such an abundance of precaution. Only now is there a more



T. N. SANDIFER

sensible picture emerging — somewhere between our earlier concept of a somewhat childish people, moving too swiftly and ambitiously towards a "place in the sun," and a smart, scheming, resourceful foe who never wasted any motions nor made any wrong decisions or bad guesses.

WE are coming to realize that the Japanese people, like any other people, were capable of grievous mistakes, and that their most grievous mistake was in permitting a mad militaristic clique to push them into a suicidal war for which they were not prepared, even according to Japan's own shoddy standards and flimsy notion of adequate preparation.

PUBLIC utility men will be interested in a firsthand picture of how such flimsy thinking permeated Japan's preparation for war with respect to her electric power industry. The leading article in

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USE MERCOID "DA" CONTROLS FOR THOSE TEMPERATURE AND PRESSURE PROBLEMS

this issue is an eye-witness account of "Japan's Two-bit Power Outfit." It was written by an American Naval officer, who was not only equipped with background knowledge to appreciate the inadequacy of Japan's power resources, but who also had the indispensable advantage of "availability." In other words, he was able to be on hand right after the American Navy finished with Japan's strategic power reserves (and the word "finished" is used advisedly).

RICHARD HELLMAN, author of this article, was a destroyer gunnery officer (Lieutenant (jg) USNR), with service in the Atlantic and five major campaigns in the Pacific (Leyte, Luzon, Iwo Jima, Okinawa, and the Surrender Spearhead). He served with the fast carrier force (Halsey and Spruance, Task Force 38 and 58). His ship was the *USS Mansfield*, under the command of Commander Lawrence W. Smythe, USN, of Michigan City, Indiana. Before entering the Navy, HELLMAN was a power planning economist and assistant to the chairman of the Federal Power Commission. He is now in the process of becoming a civilian again.

* * * *

THE ceiling on electric power demand in the postwar era is not an economic one, in the usual sense of that term. Neither residential consumers nor industries today base their decisions on whether or not to use electric power (a little more or a little less) on the sole question of the cost of such power per unit. An electric power expert of our acquaintance recently stated the problem somewhat facetiously when he said, "The ceiling on the use of electric power is buried underground." He was referring to the physical inadequacy of distribution systems, not only in terms of underground cables leading into homes and factories in our large cities, but more especially in the wiring within these homes and factories and the appliances at the end of the wires.

A MORE correct way of summing up the situation might be to say that the American people can have all the power they can use, but they can use only as

MAY 23, 1946



ROBERT E. STROMBERG

much power as they have facilities to permit such use. This is not to say that industrial capacity for generation exists to the amount of an unlimited reserve. But it is to say that generating capacity is sufficiently ahead of distribution and customer utilization for the industry to know where its marketing problems lie.

T. N. SANDIFER, whose article on the future power demands that are likely to spring to being from postwar industry begins on page 677, has spent nearly a quarter of a century writing national news, mostly from Washington bureaus of press associations.

* * * *

ROBERT E. STROMBERG gives us an up-to-date analysis of the so-called "charges in lieu of taxes" (beginning page 685). He is a certified public accountant (Maryland), as well as a member of the District of Columbia bar. He has been employed in various departments of the U. S. government since 1927. For more than a decade he has been an accountant officer of the Federal Communications Commission.

THE next number of this magazine will be out June 6th.

The Editors



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Remarkable Remarks

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—MONTAIGNE



EARL G. PLANTY
Training director, Johnson & Johnson.

"Industry is full of men who can tell why a machine doesn't work, but not why a man doesn't work."

FRANK R. KENT
Columnist, The (Washington, D. C.) Evening Star.

"Not often in this country, but sometimes, in labor as in party politics, slick men outsmart themselves."

J. J. NANCE
Vice president, Zenith Radio Company.

"We must create and sustain a desire for goods to steadily increase consumption to raise the standard of living."

HAROLD J. RUTTENBERG
Research director, United Steelworkers of America (CIO).

"Management and labor must scratch their brains to get better ways of doing things or they'll get them beaten out."

BENJAMIN H. NAMM
President, National Retail Dry Goods Association.

"If we can prevent the OPA from preventing production, the country can break the economic log jam now confronting it."

SAMUEL G. HIBBEN
Director of applied lighting, Westinghouse Electric Corporation.

"The cost of fuel cuts such a relatively small figure in the over-all expense of generating electricity that atomic power plants would reduce electric bills only slightly."

ALFRED P. SLOAN, JR.
Chairman, General Motors Corporation.

"Unless decisions on both sides of the bargaining table are made in the long-term interests of the business itself, and hence of its customers and the public, American industry cannot serve and cannot progress."

ALBERT J. ENGEL
U. S. Representative from Michigan.

"I firmly believe that we are now doing to the power industry of America by degrees what Clement Attlee and the Socialist party are doing to the banks and the coal mines in England in one fell swoop. We are socializing it."

Excerpt from annual report, Standard Oil Company of New Jersey.

"Two faiths are in conflict today, at home as well as abroad—a belief in an expanding freedom and responsibility for the individual *versus* a belief in an expanding authority of the state even though the result may be a contracting freedom for the individual."



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REMARKABLE REMARKS—(Continued)

LEONARD P. AYRES
Vice president, Cleveland Trust
Company.

"Corruption in Federal statistics by the government itself on behalf of selected pressure groups is the issue which is producing violent argument in Washington."

HATTON W. SUMNERS
U. S. Representative from Texas.

"There isn't a sensible person in this room now who can look his children or grandchildren in the face and be certain that he can leave to them the heritage of the privilege of being free."

PHILIP D. REED
Chairman, General Electric
Company.

"Instead of helping the situation, the unprecedented and, I believe, extremely unwise taking of sides by the Federal government on the wage issue has done a serious and irreparable hurt to everyone of us. Inflation is not now simply a threat; it is a stark reality."

ALBERT RAMOND
President, Albert Ramond &
Associates.

"Management spends hundreds of millions in advertising the quality and uses of its products and services. Is it not advisable that it support on an equally liberal basis the educational program of basic economic truths vital to the need for its products and services?"

DONALD R. RICHBERG
Co-author, *Railway Labor Act* and
National Industrial Recovery Act.

"All those who insist on using organized force to advance their selfish interests should be recognized as public enemies in an interdependent society which cannot prosper or even survive except through the ever closer and more willing coöperation of all its members."

ROSCOE POUND
Former dean, Harvard Law
School.

"With the multiplication of Federal administrative agencies, the increasing subjection of every form of activity to administrative regulation, and the hostility of administrative agencies to all attempts to impose effective legal checks upon them, we have been coming to a condition which may well be called administrative absolutism."

RAYMOND WHEELER
Chief of Engineers, United
States Army.

"We should prepare for the probable trend of the post-war era to decentralize major national activities, by making available innumerable sites for the dispersal of industrial expansion along the banks of our improved waterways and ship channels, and by providing extensions of these facilities through desirable land-locked areas for maximum accessibility."

EDITORIAL STATEMENT
The New York Times.

"If we are to get ahead with the problems of reconversion, rival industrial groups and rival unions must iron out their internal dissensions, and the government itself must help to create conditions which favor a balanced collective bargaining. All must admit that disputes which interfere with the flow of the necessities of life are 'affected with a public interest.'"

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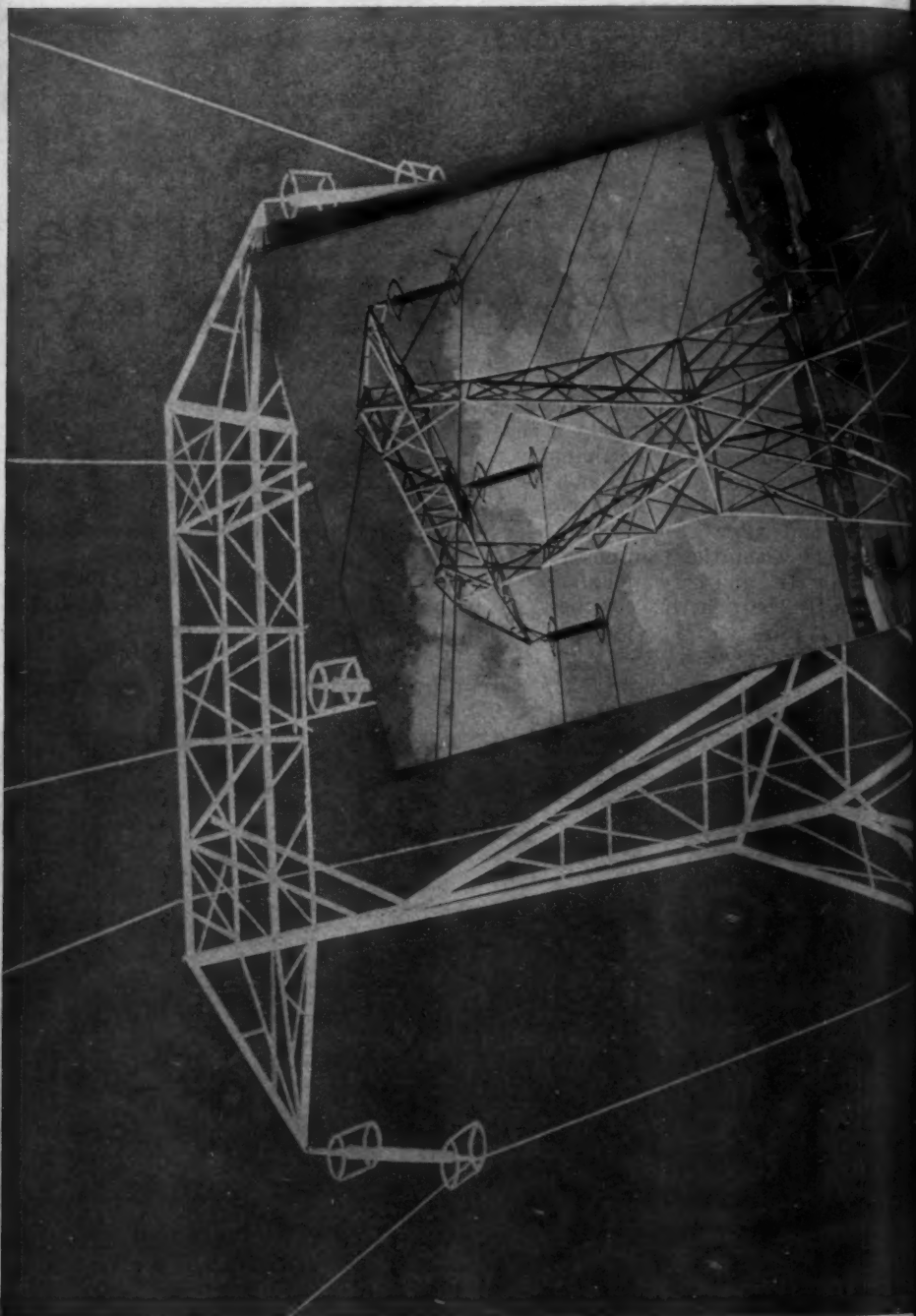
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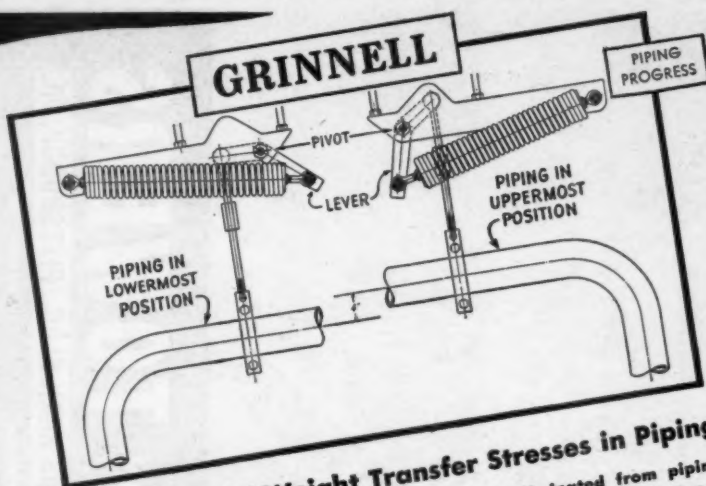
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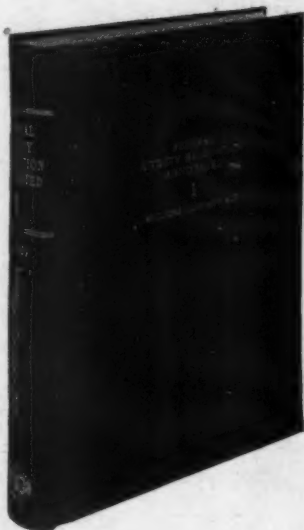
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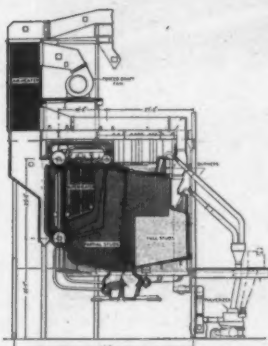
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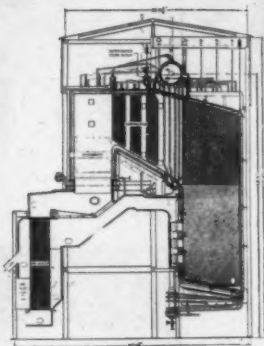
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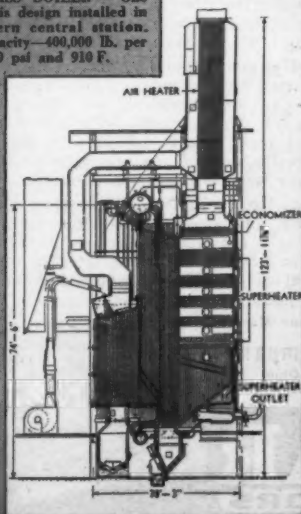


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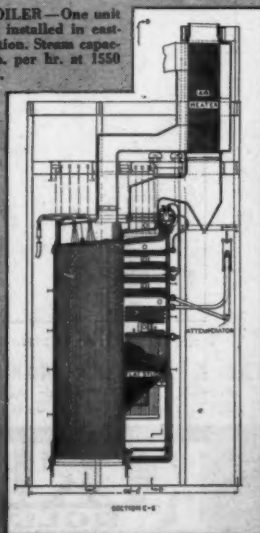
RADIANT BOILER—Twelve units of this design installed in Pacific Coast central stations. Steam capacity each—200,000 lb. per hr. at 1525 psi and 950 F.



OPEN-PASS BOILER—One unit of this design installed in mid-western central station. Steam capacity—400,000 lb. per hr. at 1500 psi and 910 F.



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Utilities Almanack



MAY



23	T ^h	† American Water Works Association, Pacific Northwest Section, begins meeting, Gearhart, Or., 1946.	☾
24	F	† New Jersey Utilities Association begins meeting, Absecon, N. J., 1946. † Great Lakes Power Club meeting begins, Chicago, Ill., 1946.	
25	S ^a	† American Gas Association Midwest Personnel Conference begins, Kansas City, Mo., 1946.	
26	S	† Pennsylvania Telephone Association will hold convention, Pittsburgh, Pa., June 6, 7, 1946.	
27	M	† Gas Appliance Manufacturers Association annual meeting will be held, Chicago, Ill., June 11, 12, 1946.	
28	T ^u	† Pennsylvania Electric Association, Engineering Section, begins meeting, Harrisburg, Pa., 1946.	
29	W	† Pacific Coast Electrical Association will hold annual convention, San Francisco, Cal., June 12-14, 1946.	
30	T ^h	† Washington Independent Telephone Association annual convention will be held, Spokane, Wash., June 14, 15, 1946.	
31	F	† Federal Power Commission resumes natural gas investigation hearing, Washington, D. C., June 17, 1946.	



JUNE



1	S ^a	† National Electrical Manufacturers Association will hold meeting, Hot Springs, Va., June 17-19, 1946.	
2	S	† Canadian Gas Association annual convention will be conducted, Quebec, Canada, June 19-21, 1946.	
3	M	† Oregon Independent Telephone Association will hold convention, Portland, Or., June 21, 22, 1946.	
4	T ^u	† Edison Electric Institute convention begins, New York, N. Y., 1946.	
5	W	† State Utility Engineers will hold annual conference, Belgrade Lakes, Me., June 25-27, 1946.	



FIRST ARC LAMP, GINZA STREET, TOKYO—1882
(From wood engraving.)



NIGHT VIEW OF GINZA STREET—1935
(Prior to World War II destruction.)

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Public Utilities

FORTNIGHTLY

VOL. XXXVII, No. 11



MAY 23, 1946

Japan's Two-bit Power Outfit

Surprising information as to production and capacity of the overestimated Nipponese industry, its governmental organization, rate structures, employment, salaries, and rationing—lack of resiliency during the war—the bombing havoc.

By LIEUTENANT (JG) RICHARD HELLMAN, USNR

LIKE almost everything else about her, Japan's electricity setup was a "two-bit" outfit. In war and in surrender, it tells that wretched country's story.

You see it on walking into the most important offices of the industry, in the 6-story Tokyo building that houses the Ministry of Commerce and Industry. No Sunstrands, Marchants, or IBM's are found there. Hard as it is to believe, statistics are still gotten up on a leisurely abacus counter. There is no click of snappy typists, no efficient chomping of stenographers' jaws on spearmint. Occasionally, one does stumble on a mastodon which turns out

to be a Japanese-writing typewriter. In some quiet corner, a dusty old American typewriter may be encountered, too, to show that once these people wrote friendly commercial correspondence to us. The one seen by the writer was probably used for the first time since 1941, to type out much of the data given him and presented here.

The office looks more like a junk shop, with nondescript papers lying around indiscriminately mixed up with spoons, kitchen knives, teacups with the remains of weak tea, and black ink. Everybody works along as though in "condition normal." The building stands around a small yard used for

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parking charcoal-burning autos, but now only burned-out hulks are parked there, brown with rust. A third of the building is gutted; not all in a single spot, but in sections unpredictably stuck in among parts undamaged. This drab outfit doesn't hold a candle to the most inefficient utility office in our country. Those of us who have been over to Japan since its surrender wonder, "How did they do it?"

The answer is, simply, they didn't. The story affords an informative contrast with the way we did it here, and is worth a brief telling. By way of general interest, the reader will find that much of the information here is published for the first time. This includes the figures on production and capacity, which haven't been available since 1937 in authoritative form, and which show how greatly we overestimated Japan's war output in the last years of the war. Of interest are the data on the efficiency of Japan's steam-power plants. The load curves, which are only summarized here, show very compactly the effect of the war and surrender on Japanese war output. Evaluation, in public, of utility plants as bombing targets is also possible now for the first time. The reader will find here, in addition, little known information on the peculiar governmental organization of the industry, the rate structures, employment and salaries, and rationing. Occasional parallels in American experience are drawn to show the vast difference between the Japanese and us.

Zero War Expansion

THE most amazing single fact about Japan's power industry—which more than anything else shows

on what a shoestring she fought—is that its output did not go up materially during the war. The output of all utility and factory generators was 35 billion kilowatt hours in 1940, and only a billion higher in 1944. Subtracting transmission losses, consumption also increased the same slight amount, from 28 to 29 billions.

What this means is that the Japanese had to fight the war against us with what they had piled up before Pearl Harbor. After that, their colonial victories didn't do them much good; our Navy cut their supply lines so completely that neither materials nor machinery were available to construct electrical equipment. On top of that, they had a skilled labor shortage. And a food shortage!

"Without the atomic bomb, we were ready to quit in the summer of 1945," the writer was told by Professor Tobata of the agricultural economy department at Tokyo Imperial University, "because for two years our food imports had been cut to very little, and to virtually nothing in the last year." The Japanese were amazed by the accuracy of our low-level attacks on their shipping, delivered by carrier plane. Tobata cited the fact that of 10 ships operating the supply line between northern Honshu and neighboring Hokkaido, 8 were entirely destroyed by us on one—he emphasized the "one"—raid. (The writer was a destroyer gunnery officer with the fast carrier group that carried out these raids in 1945.)

THIS explains why only 5 generating units (bigger than 10,000 kilowatts) were installed during the war; 1 in 1942 and 2 each in 1943-4.

JAPAN'S TWO-BIT POWER OUTFIT

Since it takes two years to build and install, it may be assumed that even these 5 units were built mostly of pre-Pearl Harbor materials.

So thoroughly was the coal-carrying shipping shot up by our carrier planes, that steam generation on the main island of Honshu was reduced almost to zero. In March, 1945, the dry season, only 20 million kilowatt hours were produced by coal in all Japan, contrasted with 488 millions in the same month of the previous year. On the near-by island of Shikoku, which flanks southern Honshu to form the Inland sea, coal generation actually did go down to absolute zero.

For all Japan, though hydro stepped up from 18 to 28 billion kilowatt hours between 1935 and 1944, steam output dropped from 4.3 to 3.7 billion kilowatt hours. On Honshu, the drop was 54 per cent, from 3.4 to 1.56 billion kilowatt hours. Japan's dependence on coal is high lighted by the fact that, except for one dime-store installation (of a thousand kilowatts), she has no Diesel generation. She couldn't have gotten the oil anyway.

If we underestimated Japanese treachery before December, 1941, we overestimated their power afterwards. We did not find out how much so till after her defeat, when we went into Japan itself. Then, everywhere we

went we marveled at the poorness of the people, the ineffectual war industry. In electric power, we had estimated their output in 1944 at 47 billion kilowatt hours. In terms of military planning, this would be conservative on the high side, being based on assumptions most favorable to Japan. This cushion notwithstanding, the true production of only 36 billions is astonishing.

By contrast, U.S. production is downright impious—to the Japanese. In 1944 we generated, in utility and factory plants, 280 billion kilowatt hours. This is eight times Japan's. It is a measure of our over-all industrial effort as well. Japan, although prepared for war, was not able to expand. But we, who were caught unready for treachery, displayed a vitality and resiliency that added 100 billion kilowatt hours to our 1940 output of 180 billions.

Looking back on our troubles in the power industry during the war, we think they must have been slight, compared to those of the Japanese. We at least were climbing, while they were stuck down at the bottom. Our organization, too, was more efficient than theirs. If they did more hollering, arm waving, and cussing, they did worse anyway.

We, for example, never tasted the



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delights of an Electric Light Bulb Donation Movement. Through organizations like the Imperial Rule Assistance Association, this put the screws on people to "show such spirit as to reduce the number of light bulbs in their homes and thus donate the power saved which, in a word, may be called an ELBDM." The brown-out was so tight that special allotments were made to homes with children studying late for school entrance exams, to weddings, funerals, and illness. "By diverting the conserved electricity to essential industries," the people were told in June, 1943, in a quaint official document, called "Questions and Answers Concerning the Electric Power Mobilization Plan," "we will build in quantity, plane by plane and shell by shell, for the destruction of America and England."

Such modest hopes, such rudely shattered dreams!

This petty nagging of the people was matched by drastic harassment of industrial operations. Unfortunately for the Japanese, beginning in 1939 they were hit by a succession of droughts. Since 80 per cent of her electricity is normally run-of-stream hydro (even her important storage is confined to little more than flooded swamps) the missing kilowatt hours had to come from coal generation. But there was little coal and, because of a wicked U.S. Navy, not enough ships to carry even that little.

VIEWING the picture as a whole, two ways were open to the Japanese to meet higher power demands: increase supply or limit demand. But at least five factors conspired to keep supply down.

1 To the Japanese, every year was always "This decision year of the war." Allowing two years to manufacture and install generating equipment, it would come too late, therefore was not undertaken.

2 This viewpoint was made easier to swallow, if not inevitable, because of the drastic shortage of men and materials. What there was had to be put into munitions directly. As early as 1939, the Kiso river dam was delayed because only 500 of a needed 4,500 tons of cement were delivered, because the cement factories weren't able to get coal. So it went, an endless chain of frustrations.

3 While stand-by steam capacity was considerable, the coal shortage kept it unused. Even had the difficulties of coal mining been surmounted, increased output would have run up against the transportation bottle neck. Sometimes it was hard to tell which was worst, the country-wide shortage of coal, or the shortage of transport, or the shortage of electric power. Coal had to be saved to generate power, and power had to be saved to save coal, and both had to be saved to save transport. What coal the industry did get was so poor it discouraged the engineers, the boiler fires, and the electric clocks.

4 Since new plants, whether steam or hydro, were not to be had, the Japanese decided in 1943 to move factories to existing hydro stations, where possible. This would save a 10 to 20 per cent transmission loss, coal, and transport. The blessings, however, were not unmixed, for the hydro sites

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Daily Load Curves in Japan

"THE vagaries of war and defeat are revealed admirably on daily load curves. On June 20, 1945, a Wednesday, central Honshu had a peak load of 1.5 million kilowatts. On August 15th the Japanese threw in the sponge, and by September 5th the peak was down to half (770,000 kilowatts). This peak came at 7 to 8 in the evening, whereas the June peak came at 10 in the morning and was caused by industrial loads."

were up in the mountains, away from tidewater and the large factory centers. To move them would take transportation, as would the moving of raw materials to the factories and the end products away. The Japanese therefore didn't realize on this one.

5 A fifth factor complicated life for the Japanese — transmission woes. The eastern half of the islands, in general, is on 50-cycle, the western half on 60-cycle. While border equipment works on both, the exchange wasn't as free as it could have been. Surplus seasonal hydro on Honshu, which could have been used in Kyushu, could not be gotten there for lack of transmission ties between these close islands.

By way of showing how things were going in our country at the same time, the writer told Mitsui, chief engineer of Japan's Electric Power Bu-

reau, that we were installing new equipment at the rate of 3 million kilowatts a year during 1941-1943. His eyes opened wide, while gasps of astonishment escaped from his assistants. Encouraged, I pointed out to them that during the four years 1941-1944 we installed 10 million kilowatts of brand new modern equipment. This was equal to their entire installation of 10.2 million kilowatts for all Japanese utilities and factories, rickety as theirs were. With all the weariness of defeat, Mitsui threw up his hands and sighed, "We could never do that, America is different." And his circle of assistants nodded agreement.¹

¹ The writer, of course, was guessing on our new installations, since he had no way of knowing at sea what the figures were. The actual installations, for utilities only, during 1941-1944 totaled 10.3 million kilowatts—this was despite a substantial diversion to marine propulsion. The guess is so close to the actual only because 10 happened to be the nearest reasonable round number, and not because of any unusual prescience.

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Rationing

THUS, increased power supply for Japan in its Greater East Asia War was not practicable. "Such being the case," explains the government in "Questions and Answers," "we have naturally come to place emphasis upon rationing." Besides conversion of peacetime industries to munitions, several methods of cutting down demand were used.

1 New demands were limited. At first, power contracts between a factory and a utility had to be sanctioned by the Minister of Communications. When this didn't work, a new law was passed under which further demands had to be reviewed by the Minister. This didn't work either, and in the summer of 1943 the Japanese had to admit that "We must now renege on the power supply already OK'd by this government office." This reminds us of our own war days, when more "top" priorities were issued than materials to satisfy them, and priorities had to be established within priorities. The difference is that we were expanding at a terrific rate, while the Japanese economy was deteriorating.

2 Seasonal concentration of manufacturing was forced. The dry season comes in the months of December through March, and in August, and may cause hydro to drop as much as 50 per cent. With coal shortage and inability to compensate by steam generation, basic nonseasonal enterprises were compelled to slack off in dry months and work around the clock in wet months. Cheaper rates were provided in the wet months as an incentive. This restriction applied to the heaviest users of power—aluminum,

ammonium sulphate, and other chemicals. Other industries were made to work only during the off-peak night hours.

3 The Japanese tried to impose more efficient industrial use of power. Utility technicians were to work with factory managers. It was estimated, for instance, that aluminum should take 30,000 kilowatt hours per ton, and that was supposed to be the standard. Early in 1944 the *Asahi Shimbun*, a Tokyo paper, reported that 1,800 trouble shooters swarmed over factories in the Kanto district, shouting "Save 30 per cent electricity." This was the "Extraordinary Production Increase Corps" in action to save the nation. Twenty-six million "kilowatts" were supposed to have been saved by their heroic efforts, equal to 26,000 tons of coal, "80 or more bombers." If some sharp reader makes lightning calculations and figures out that 26 million kilowatt hours should save 13,000 tons at our standard conversion ratio of a pound of coal to a kilowatt hour, he is now told that the Japanese installations take 2.1 pounds.

4 "Nonessential" uses of electricity were cut. Early in 1944, for example, homes and stores were told to cut their use by 30 per cent. A family was allowed one light of 40 watts. A bathroom or hall light couldn't draw over 10 watts. For a home with 10 fixtures or less, monthly use mustn't exceed 20 kilowatt hours. (Compared with 5 times that for American homes throughout the war.) Banks, movie houses, hotels, and offices couldn't use more than 3 kilowatt hours a month per bulb, which comes to about one hour a day for a 100-watt bulb.

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It is a mistake to think that Japan's war with us started in 1941, December 7th. Every Japanese with whom this writer talked assumed implicitly that Japan began her war with the Manchurian Incident in 1932. How else can we explain why, as early as 1939, she banned new electric heaters, refrigerators, barber tools, garden pumps, escalators and elevators of less than three stories, or the use of neon signs, outside lighting, bill-board lighting, flood lights, and street lights with more than one bulb?

SOMETIMES, top-priority war industries were curtailed in drought. The Ford factory in Yokohama had to cut its use to 18,000 kilowatt hours per month, from a normal of 55,000, in the winter of 1941-2, though it was making Army trucks. A radar and communications equipment factory had to shut down one day a week in the previous winter for want of power.

Obedience wasn't 100 per cent, not even in a totalitarian Japan. "It seems," an official document complains, "that there were many inconsiderate persons leaving lights on even when they have gone to bed, especially in fixed-rate homes . . . Moreover, we have been in the habit of turning on lights of the same candle power for both eating and reading."

Allotments of power were made,

and a penalty of 50 sen per kilowatt hour of overuse was levied. Serious cases could result in fine and a 3-year jail sentence.

Bombs and Submarines

IN the very midst of her agonies of shortage, a solution was in the making for Japan's power ills. It contained three ingredients: (1) the attrition of her shipping by our Navy, with the cumulative loss of materials for manufacturing activity; (2) our B-29 and carrier raids; and (3) surrender. The first began with the opening shot of the war, the second in June, 1944. Tokyo was 80 per cent razed, Yokohama 85 to 90 per cent, and every other city as well (with the exception of the purely cultural center of Kyoto, the old capital). What looked like open fields along the Tokyo-Yokohama railway at night, by daylight are revealed as the level rubble of former homes and factories.

The vagaries of war and defeat are revealed admirably on daily load curves. On June 20, 1945, a Wednesday, central Honshu had a peak load of 1.5 million kilowatts. On August 15th the Japanese threw in the sponge, and by September 5th the peak was down to half (770,000 kilowatts). This peak came at 7 to 8 in the evening, whereas the June peak came at 10 in the morning and was caused by indus-



"... they [the Japanese] have separate meters for lights and power everywhere. They go one step further, in rural districts, by having two kinds of distribution lines. One allows 24-hour supply. The other carries current both for daytime supply and lighting supply: At sunset, by a switch, the daytime power is stopped, and the line then is fed with lighting current."

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trial loads. "There is a surplus of 2 million kilowatts," the Tokyo radio could console its beaten listeners, "and a decision has been reached to use this for the building of a new Japan."

THE strategy of bombing power plants in Japan involved some very fine points, and illustrates with what minute detail and planning targets were selected and timed by our Joint Target Group (a sort of combined chiefs of staff for air warfare). It was figured that half the power in a region would have to be cut if high priority munitions output were to be affected significantly. "Critical" effects would call for at least a three-quarters cut. The most efficient target spotting would concentrate on high-voltage transformer and switching stations feeding hydro into industrial centers—one cut through a winding puts it out. Steam boilers would be more vulnerable than turbines, which, because of their thick cast steel cases, would resist blast and fragments.

The trouble was, however, that other targets might be more lucrative for our bombs. Destruction of Japanese shipping and transportation and area burning of factories were reducing industrial output, and therefore the demand for power. If power plants were to be bombed, needless duplication had to be avoided. General attrition had advanced so far that in June, 1945, JTG concluded that "Japan's supply of power still remains adequate to satisfy current requirements except in isolated instances."

By this time, however, we were running out of targets fit for area bombing, and power stations were ripe for our attention. JTG had prepared plans

to attack power installations on a systematic basis, and these were put into action in the last months of the war.

THE soundness of JTG's bombing strategy is fully confirmed by a description of bomb damage given to the writer by Mitsui. A summary is quoted because of its interest:

Only last few months began systematic air raids upon electric power installations. The objects of concentrated bombing were mainly large steam-power plants and most of the large plants in Tokyo, Yokohama, Nagoya, Osaka, and Kobe have lost their generating capacity. Thanks to abundant water power during the rainy season and marked decrease of power demand, the loss of the large steam plants does not hamper power supply because of no necessity for running the steam-power plants.

A few water-power plants were attacked by small planes, but damage was slight. A few primary substations sustained great damages which are almost impossible to restore, but with some other spare equipments they are not any trouble for power supply.

Transmission lines were mostly interrupted by explosive air pressure, but the damages were quickly restored and did not cause long interruption. Distribution lines and transformers, almost all of them being overhead lines, were burnt out when cities were subjected to incendiary bombing, but very few distribution substations were burnt. In certain districts there were some substations damaged by the firing of machine guns of planes.

In the summer of 1943 the Japanese were told by their government that it had "provided absolutely secure methods for the protection of electric power installations." No comment.

One of the more remarkable effects of our Naval blockade of Japan is seen in the loss of her steam capacity "available." Despite having 3 million kilowatts of installed capacity (public utility), only half of this was available toward the end of 1944. At a time when war output should have been at its best, this was caused by a pyramiding of the shortage in maintenance materials, poor coals, and several years of over-

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Regulatory Board in Japan

"JAPAN doesn't seem to have had a distinct regulatory entity like our Federal Power Commission, Securities and Exchange Commission, or the state commissions. Since 1909, there has been an Electric Power Bureau within one ministry or another. Currently, it is the governmental agency for controlling the ten National Power Policy companies."

work. On top of this, Mitsui told the writer, installations "were subjected to terrible air raids," and some equipment had to be evacuated.

By the end of the war, only 500,000 kilowatts of steam capacity were available in all Japan! It is hard to grasp, for the city of Detroit alone has 1,250,000 kilowatts of fuel capacity.

Markets and Reparations

THERE is some thought of transferring Japanese power installations to China as reparations. Offhand, it doesn't look as if much of this will materialize. Two-thirds of the turbo-generators (larger than 10,000 kilowatts) are ten to thirty years old. Only 35 (of 112) are newer, and these are all of inefficient Japanese manufacture. "More upkeep, less reliability, shorter life," was the way the dean of Japan's best engineering school summed it up for the writer. To these drawbacks should be added bomb dam-

age. Once recovery gets under way in Japan, she will need all, or pretty near all, of her capacity to satisfy minimum needs. Moreover, if the Chinese want secondhand machinery, they can get better discards from us.

The commercial question also has come up of whether Japan will be a market for American electrical equipment. This seems strange, from a sentimental viewpoint, considering that we have only just put a stop to their trying to kill us off. From a business viewpoint, however, there will be a problem of supplying repair materials. Much of these she will have to import, most likely from us. Regarding the equipment she would normally have manufactured for herself before the war, it is doubtful whether we will allow her to resume all of this—for example, turbines and generators in which she reached a peak manufacturing capacity of about a million kilowatts. If we do prohibit such manufactures, she

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may be on the market for import of heavy units again in five to ten years.

JAPAN'S "critical" need to rehabilitate her existing systems is summed up in the following statement from Mitsui:

It is now difficult to obtain materials and equipments necessary for repair and restoration of facilities for power generation, transmission, distribution, and power consumption. Particularly such materials as are manufactured little in this country; for instance, rubber, oil, mica and cotton for insulation, tungsten, and tin should be secured through import. As for electrical equipments, their manufacturing factories should be reopened. At present boiler tubes for steam-power plants are hard to obtain. Shipping of coal for steam-power generation, depending mostly upon sea transport, is tremendously difficult when sea transport is almost entirely interrupted. Shortage of trucks and other moving vans for the transport of materials causes a great difficulty in repair and restoration of electrical equipments. For this purpose, trucks and fuel are urgently needed.

Whenever Japan does get new installations, she will be partial to hydroelectric units. They take no coal or oil, have less upkeep, use less labor, and last longer: an ideal setup for a country meantly endowed with raw materials. In round figures, 6 million kilowatts of hydro have been developed to date at 949 sites (at maximum flow). About 2,200 sites could provide another 14 million kilowatts, 80 per cent of them on Honshu, with a third of this figure at minimum flow. The new sites aren't as good as those already exploited, naturally.

Rate Structures

Now we come to the inevitable subject of rates, wherein the Japanese are primitive in several respects, and in one or two might be considered ahead of us by some people.

To start with, they have separate meters for lights and power every-

where. They go one step further, in rural districts, by having two kinds of distribution lines. One allows 24-hour supply. The other carries current both for daytime supply and lighting supply: At sunset, by a switch, the daytime power is stopped, and the line then is fed with lighting current. By this neat maneuver the farmer can run his motors by day, and he can see by night, but he is estopped from doing both simultaneously. The line carries 220 volts by day and 100 volts for lights by night, the current running through different distribution transformers and different meters.

The flat rate for lighting is still retained, although it applies to very small users only. Nevertheless, there are millions of such, since homes with 4 lamps or fewer come under the flat rate. Half the lighting revenues in 1944 came from flat-rate users. Before the war, 95 per cent of all households had electricity, if only the ultramodern luxury of a single 10-candle power bulb.

Rates are uniform throughout the country, except for slight local differences for large and rural power users. Uniformity is a recent thing, brought about during the war. It was made easy by the bringing of all power distribution under nine regional "National Power Policy" companies. The Japanese have thus carried to fulfillment the idea introduced among us on a system-wide basis by companies like Alabama Power and Consumers Power of the Commonwealth & Southern group.

COST of electricity in Japan is almost trivial, and it's a bit hard to tell just why this should be. Japanese money is in yen, which the Army and Navy get at 15 to the dollar from our

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supply officers in Japan, or about 7 cents each. Actually, it is known to be worth less—only 3 cents according to what a financial adviser of the Bank of Japan told the writer, and that is the conversion figure we'll use in this article.

Before the war, a yen was good for about a quarter. A hundred sen make a yen.

Now let's quickly look over the monthly rates by user types. These were set last July, and are about 50 per cent more than the old rates.

Lighting. A one-bulb house can get away for as little as 2½ cents a month (using a 3-cent yen). The flat rate, for those with less than 5 lamps, starts at .8 yen a month for a 10-candle power load, and goes up to 2.7 yen for 100 candle power.

On meters, the charge is 20 sen per kilowatt hour plus 20 sen per lamp. An American home using 10 lamps and 25 kilowatt hours a month would pay the magnificent sum of 21 cents. TVA please copy.

"Big light" users (6 kilowatts and over) pay 15 sen per kilowatt hour plus 4.5 yen per kilowatt of demand.

Power. The average farm is 2½ acres, with most falling within an acre either side. What few farmers have motors are mainly on a flat rate, paying so much per motor. For a ¼-kilowatt motor, they pay 4 or 5 yen. A

¼-kilowatt motor pays 7 yen, and anything bigger 12 yen. The farmer is one man who didn't have his rates jacked up last summer, and the reason probably is that the government wanted his rice, with no irritations, please. The rice paddies, incidentally, use power to attract insects to a light, then electrocute them. On account of the black-out, though, there wasn't much of this during the war.

Industrial power is pretty cheap, too. Between an under-50-kilowatt demand and an over-5,000-kilowatt demand, the energy charge drops from 4 sen (per kilowatt hour) to 2.4 sen, and the demand charge from 3 to 2.4 yen. Toyama city seems to be the Tacoma of Japan, the kilowatt-hour charge in the over-5,000-kilowatt group being only 1.6 sen. This is only half a mill in our money.

Naturally, the electrochemical industries get reductions on these rates, aluminum and magnesium paying 1.5 to 2 sen for energy, with no demand charge.

There is generally a minimum charge, and a recent trend to introducing a demand charge. There is a small meter charge, and the usual minor variations for load factor, power factor, etc.

Ownership and Control

WHILE in the Electric Power Bureau, the writer noticed a prewar

Q "PAY is unbelievably poor [in Japan] by our standards. It is one reason why rates can be low. In November, the average wage was 1,400 yen per year. The average salary was 3,000 yen. A university graduate, after being employed about five years, gets 2,500 yen; after ten years, 4,000 yen. The highest salary is 10,000 yen. At 3 cents a yen, this is worth \$300."

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report of the Federal Power Commission, and the railroad electrification study of the old National Power Survey. Curious, he asked Mitsui and his engineers what reports they would be interested in having from the U.S. After a moment's pause, they came up with this answer: TVA, Bonneville, Boulder dam, and Federal Power Commission.

The organization of the industry is entirely unlike ours. It is owned and operated privately. But the government completely controls (not just regulates) it.

All generation and high-tension transmission, with a few small and scattered exceptions, are done by the Japanese Electric Power Generation and Transmission Company. This company, also known as Nippon Hassoden KK, was formed in 1939 by an exchange of stock with the former private operating companies. Distribution is entirely monopolized by nine regional distribution companies, similarly formed in 1942.

The officers of these companies were drawn largely from the absorbed utilities, but representatives of the government sit with them and have the final say. The directors, president, and vice president are appointed with approval of the Ministry of Commerce and Industry. The presidents "interlock" for coordination. At first the companies were guaranteed 4 per cent, but in recent years this has been upped to 6.

THE plan seems beautifully simple, but it was fought tooth and nail by the utilities. It was also opposed fiercely in the Diet by liberals who were against this form of more government. It was pushed through by the Army,

but would not have had a chance except for the war.

These changes, which have come about only in the last seven years, highlight a most interesting fact—that each great phase in the industry's reorganization was sparked by plans for a new phase of war. First there was the Manchurian Incident in 1932, which marks the real beginning of Japan's war. Before that, there were many small competing units, roughly comparable to our pre-1918 period. These were subjected to integration, beginning in 1932, under the "Big 5" of Japanese families, 3 of which controlled 55 per cent of the industry when it was over. This phase was like our 1920's.

The second great change was brought on by the China War, which began in 1937. Anticipating it, the Army in 1936 tried to get a nationalization bill through the Diet, but was temporarily beaten. It won when the Electric Power Control Bill was enacted in March, 1938. Under this law, Nippon Hassoden was formed in April, 1939.

When the Army began planning for Pearl Harbor in seriousness, power distribution got the nod. In August, 1941, the Electric Distribution Control Law was passed. In December, 1941, Pearl Harbor was bombed. And in April, 1942, the nine companies were organized to take over all distribution facilities.

JAPAN doesn't seem to have had a distinct regulatory entity like our Federal Power Commission, Securities and Exchange Commission, or the state commissions. Since 1909, there has been an Electric Power Bureau within one ministry or another. Cur-

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rently, it is the governmental agency for controlling the ten National Power Policy companies.

A very strange paradox has occurred in the course of "nationalization." Public ownership became a 100 per cent casualty! Before passage of the 1941 law, 7 cities and 4 prefectures owned power facilities, through which they could influence private utility policies. Tokyo, Kobe, Sendai, and Kyoto were among them. All got absorbed in the distribution companies.

A lot of ill feeling was engendered when Nippon Hassoden was formed, on account of the fierce competition for jobs between Electric Power Bureau workers and the employees of the absorbed utilities. This was fixed up when the distribution companies were organized, by forbidding them to employ bureau workers for five years after they left the bureau.

At the end of the war, there were 90,000 workers actually at work in the industry. Fifty thousand were laborers, 40,000 clerks and engineers. Allowing for expansion with the end of the war, this still doesn't seem like much. The people working on this sort of thing with our military had figured the number might be as high as 175,000, which is another case of how we overestimated Japan.

PAY is unbelievably poor by our standards. It is one reason why rates can be low. In November, the

average wage was 1,400 yen per year. The average salary was 3,000 yen. A university graduate, after being employed about five years, gets 2,500 yen; after ten years, 4,000 yen. The highest salary is 10,000 yen. At 3 cents a yen, this is worth \$300.

These figures include the annual bonus which, under the Japanese way of paying, accounts for about half the total income of a worker. Although these incomes may rise under pressure of inflation, they will continue to retain the same quality of poverty. It is a quality which has always characterized Japan, and more so in defeat and ruin.

Revenues of all utilities, in 1944, came to 950 billion yen. A third was from lighting, the rest from power. The distribution companies are virtually sure of a 6 per cent dividend, because the government adjusts gateway charges of Nippon Hassoden accordingly. The latter in turn is indemnified for its losses.

The paid-up capital of the industry is 3,335,000,000 yen, and the fixed assets 6,231,000,000 yen. With the yen what it is, these values don't have much meaning. The investment would be worth 1½ billion dollars at the prewar exchange rate of about 25 cents, and about a tenth of this at present inflated values.

In the future, there is little likelihood that control of the industry by the government will change materially.



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Concentration of ownership of the stock in the 10 big companies, however, will undergo a sharp change. The "Big 5" families, who supported the war, are being forced by General MacArthur to get rid of their holdings through sale of their stock to the public. They are likely to lose the cash proceeds as well, because the plans are to impose a retroactive war profits tax that will most likely devour them.

It's nice, when you have won, to sit

back and wonder what the enemy would have done had he won. But after fighting the Japanese, and seeing their country in defeat, and talking to them, the writer reasons along these lines:

(1) The Japanese were just so smart, (2) but not smart enough to see they couldn't win, (3) but smart enough now not to start a war with us for the long, foreseeable future. Not with half a million kilowatts of steam capacity, anyway.



Communications in Argentina

"**T**HE [Argentine] government's interest in nationalizing all communications, which had become evident in 1943, was further emphasized by a decree issued on January 31, 1944, providing that (1) in the future, concessions or licenses for the operation of radio broadcasting stations will be granted only to native-born Argentines, naturalized citizens of not less than ten years' standing and residence, or to corporations the statutes of which make clear their Argentine status; (2) concessionaires must be legally domiciled and headquartered in Argentina; (3) capital must be held by native-born Argentines or by naturalized citizens of not less than ten years' residence; (4) all shares must be nominative and may not be sold or transferred without the knowledge and approval of the director general of posts and telegraphs; (5) all directors who carry out administrative, executive, or representative functions must be native-born citizens; (6) the chief technical and administrative positions must be filled with native-born citizens; and (7) all other personnel must be either native-born or naturalized citizens of not less than ten years' standing. Sixty days' time was allowed for full compliance with the provisions of the decree."

EXCERPT from "Economic Situation in Argentina—1944,"
International Reference Service.



New Power Demands Will Spring from Postwar Industry

There will be expanding kilowatt requirements from mass production enterprises, automotive, domestic, and heavy goods, increased power needs for the operation of wind tunnels for testing aircraft, for chemistry, iron, steel, nonferrous metal, and other established businesses, as well as for anticipated new undertakings.

By T. N. SANDIFER

NEW production processes, modernized plant machinery, and postwar pressure to beat costs due to higher wages and other factors, all point to an increasing demand for industrial power.

The demand will extend to larger utility uses generally in industry, but certain developments during the war are now being informally interpreted, in the absence of official figures, as pointing to a new era in industrial power requirements.

This development, incidentally, will emphasize the place in plant management, of the utilities expert, in scheduling operations to get the most power for the least cost, in efficient plant layout to utilize power, and in management of power use within the plant.

All the figures point to power to spare, with the diminishing war load,

and the war resulted in new equipment designed primarily for power. Moreover, the larger interest in industrial research will put an added draft on power.

Such an item as wind tunnels for testing aircraft can spell a tremendous hike in load demands in a given locality. To get winds simulating today's astronomical air-speed possibilities calls for electric power in quantity and in heavy "pushes."

While private aircraft industry maintains wind tunnels, these are largely of a general-purpose nature, and not equipped for the postwar demand mentioned. However, it may be forced to install such facilities as time goes on. Meanwhile, the government does have them.

The war shrouded many research developments, such as may have been an

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adjunct to aviation manufacture. The best-known activities in this particular are those which were conducted by the government, and will be continued in the postwar years. However, owing to competitive conditions, it is reasonable to anticipate that at least the big aviation manufacturers will have research facilities of their own.

MEANWHILE, it may be an index to the future that the total horsepower of all facilities operated by the National Advisory Committee for Aeronautics in 1945 was 201,000 horsepower, and that new facilities under construction will raise this to 432,000 horsepower in 1947—an increase of 115 per cent.

In fact, it has been necessary for this research body to seek increased funds from Congress to meet the spread between utility requirements of 1945 and those anticipated for 1947. In the latter year new high-speed supersonic wind tunnels will be placed in operation. Now under construction, they will be operated by electric motors having a capacity far greater than any equipment now installed.

At Moffett Field, California, the supersonic tunnel will be operated by electric motors totaling 50,000 horsepower; another at Cleveland, Ohio, will use a total of 90,000 horsepower. The total connected load of all wind tunnels and other equipment used by NACA, as shown above, has jumped over 100 per cent since 1945.

In fact, from the utility standpoint, apart from other factors, aviation wind tunnels are expensive propositions. Their use results in a considerable demand on power sources to operate at full speed. Operation at maxi-

mum speed is usual only for short periods, which means a relatively small amount of energy used each time.

UTILITY companies obviously don't care too much for this type of outlet, and the tunnels are subject to a demand charge in most cases because of this spurt type of power load. This, in turn, calls for careful power scheduling by the tunnel and laboratory staffs. The high-power equipment must be operated at times when the utility company can best meet the demand. Operations are therefore scheduled for daytime in such a way as not to exceed demand limitations, and some equipment is necessarily operated at night.

It has been calculated that if the Cleveland 8-foot supersonic tunnel, now under construction, were run for thirty minutes in daytime, rather than at night, for only one day each month, the demand charge would amount to \$1,800,000 per year. Adding the energy charge, the bill is estimated to be around \$2,621,000. This total exceeds the amount now estimated for all NACA electrical services for 1947; hence it is foregone that operations will be geared closely to power cost limitations.

As a matter of record, through careful power scheduling in 1945, an estimated \$288,000 was saved. In addition to the cost of electrical services for this particular research group, the total of \$2,250,000 now projected for 1947 must cover also gas, water, and sewerage services, besides certain incidentals.

With commercial aviation production now emerging from the war phase, it is too soon to guess what research installations they may use, over and above what is available to them

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from government sources. However, changes in design, competition, and other factors point to a certain amount of such equipment, apart from government laboratories.

THE Federal Power Commission has recently issued the resulting data from a survey of industrial electric power requirements.

"Manufacturing industries," the commission states, "excluding government manufacturing industries, increased their requirements for electric energy during the period 1939 through 1944, 104.7 per cent, or from 75 billion kilowatt hours in 1939 to 144.3 billion kilowatt hours in 1944.

"The first three industries in this category in the order of their energy use in 1944 are chemicals, iron and steel, and nonferrous metals. These three industries used 46.1 per cent of the energy used by manufacturing and extracting industries in the United States during the year.

"In 1939 the three leading industries in order were iron and steel, chemicals, and paper, using 39.3 per cent of all energy used by manufacturing and extracting industries.

"In terms of kilowatt hours, the three largest users in 1944 showed the greatest increases during the period 1939 through 1944—19.4 billion kilowatt hours or 199.2 per cent for chemi-

cals, 11 billion kilowatt hours or 90.2 per cent for iron and steel, and 14.8 billion kilowatt hours or 248.6 per cent for nonferrous metals. . . ."

Extracting industries (mining) showed a 40.4 per cent increase in their use of electric energy over the same period, coal mining, of course, leading in the gain as the largest of all extracting industries in the country.

THIS article deals with industrial use of electric power, but it is an interesting side note that the greatest relative increase of all industrial users in the years under review was shown for transportation equipment, with more than 18 times the use in 1944 of 1939 energy consumption.

In 1944, in short, the total industrial use of electric energy was 2 times that of 1939, and data for 1945 indicate that there will have been a further increase of 2.9 billion kilowatt hours, or for that year 82.6 billion kilowatt hours, compared with an increase of 79.7 billion in 1944, over 1940. Manufacturing and extracting industries estimated, at the time of the report, that in 1945 they would use more electric energy than was produced in the United States by electric utility and nonutility producers combined, in any year prior to 1940.

Exact figures of the order of those used in the report are not yet available



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for subsequent periods, but data up to now show that there has been no significant drop in industrial power load despite the termination of most war production.

If this spot check is borne out by later figures, it will be the more striking because virtually the entire government-built and war-operated magnesium and light metals industry has closed down, and the largest units are on the block for sale or lease. These light-metal producers, it will be recalled, are primarily dependent on large supplies of electric power, also gas.

A PART from projections, however, certain information is available that bears out these expectations. Recalling from the above citations that the iron and steel industry in 1944 stood second only to chemicals in its power demands, it is pertinent to note that this industry is largely shifting to electric furnace operations, as a result of the wartime expansion in this type of steel mill.

This finding is reported by the U.S. Tariff Commission, which has just completed a detailed study of the subject for a congressional purpose.

Steel is usually made by one of three major processes—open hearth, Bessemer, or electric. The electric process is used for making special steels, chiefly alloy steels. The United States has learned a great deal about making alloy steels during the war, and especially from combing the technical files of the huge German war plants visited by technical missions on the heels of the advancing American armies. Reasonably, alloy steels will find a big demand in the postwar industrial picture.

In any event, quoting the Tariff

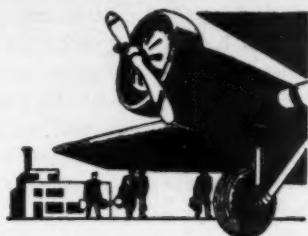
Commission now, "In the United States and, to a considerable extent, in foreign countries, the electric process is displacing the older crucible or pot process for the manufacture of tool and fine steel."

A GAIN, in passing, the mass production, which is the key to this country's economic salvation at the moment, depends on tools and equipment using such steels. Much of the data seized in Germany deal with alloys for such tool steels, and these were, of course, electric process products to a large extent, if not altogether, in Germany. It is plausible to anticipate that there will be production of these electric process alloys in this country, as the demand warrants.

Again quoting the Tariff Commission findings: "In recent years, new processes have also been developed for coating steel wire and sheets with zinc by electrolytic methods, and the use of bonderized and other types of chemical coating has increased."

Electric furnaces in this country were, of course, greatly increased in capacity because of the abnormal war requirements for alloy steel, including stainless steel. These facilities are standing and, in any curtailment of operations, it is logical that the older, more expensive processes will be abandoned first.

All expansion of steel capacity in the period 1942-1945 was in open hearth and electric steel. Capacity for Bessemer steel actually declined in this period. Net additions to electric steel capacity from January 1, 1940, to June 30, 1945, increased 189.2 per cent. The increase jumped from 1,888,000 short tons to 3,572,000 short tons.



Commercial Aviation Production

“WITH commercial aviation production now emerging from the war phase, it is too soon to guess what research installations they may use, over and above what is available to them from government sources. However, changes in design, competition, and other factors point to a certain amount of such equipment, apart from government laboratories.”

THE great bulk of iron and steel production, as well as a major part of steel consumption, is in the East North Central area of the country, including western Pennsylvania, or an area north of the Potomac and Ohio rivers, south of the Great Lakes, and lying between the Mississippi river and the Appalachian mountains. There is, of course, the buddings of a new steel industry in the Pacific coast area, stemming from the former government-built steel facilities in that area.

Then there is the light-metal industry — magnesium, aluminum, etc. — presently in a state of flux from peak production in the war, as predominantly government-built and owned plants, to a gradually reconverting and expanding peacetime output, the scope of which is yet to be determined. This industry utilizes electric power almost altogether in its chemurgical aspects, as well as many other phases.

Perhaps more important than any

of these are the nation's great mass-production industries, the automotive, domestic appliance, and heavy - goods producers, where chain production is the god. Machines are power driven, material is handled mechanically, power motived, and, apart from electric power, such plants use manufactured gas, water, and other utilities to an extent little realized outside of the industries concerned.

In fact, a certain large plant, in the category cited, actually used, by computation, the same amount of utility services as a moderate-sized city.

THE Federal Power Commission now has in circulation a questionnaire designed to show for the current period just what proportion of costs is represented in production by power consumption. The data from this canvass of private industry using electric power have not come in yet, but, meanwhile, the using industries are showing

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increasing consciousness of the relation of their utility consumption to production costs. Individual plants have a very accurate check on this phase of operations.

A large plant will maintain a control system that includes meters which are subject to daily check by plant experts, daily utility flow sheets, and perhaps other methods of keeping an accounting eye on consumption of electric power, gas, and other utilities. For illumination, actuating the mass-production machinery and other purposes around a large plant, as much as 300,000 kilowatt hours of electricity per day may be used.

Such plants, of course, use gas, steam, water, and other utilities, apart from electric power. Under competitive pressure on costs in reconversion manufacture, an increasing amount of attention is being shown in the problem of curtailing utility costs, but it is not expected that these normally careful phases of management routine will affect the major expectation of greater power demands from industry, because of the major developments in modernized processes, postwar utilization of former enemy processes, especially in chemical industry, and other such progress.

NOR is this solely a manifestation in American industry. Norway, for instance, has what are believed to be the largest hydroelectric power resources in Europe. At present only about a fifth of this potential is being exploited.

Expanding industry and anticipated new industries already are factors in pressure for increasing the draft on this power; to replace 1,000,000 tons

of coal and 700,000 tons of coke and cinders imported before the war, it is argued, 2,000,000 kilowatts of electricity will serve, and it is planned to utilize electricity postwar, as was done during the war, to replace coal for the electrified state railways.

Reconversion, in the United States, of former government plants, is giving a piecemeal fillip to peacetime electrical consumption for industrial purposes. Thus, several chemical companies are leasing space and using the facilities of the magnesium plant at Henderson, Nevada, formerly operated by Basic Magnesium, Inc., as the facilities are especially adaptable to electrometallurgy, light metals and alloys, and chemical production. A number of other chemical companies have indicated their interest in also acquiring space.

A brief summary of some of the production equipment in this particular plant will point to the emphasis now being placed on electric processes; each of the nine buildings consists of three units, an electrolysis unit, electrical conversion unit, and chlorination unit. Major machinery and equipment include magnesium cells in the electrolysis unit rectifiers and motor generator sets in the electrical conversion unit and furnace transformers, etc., in the chlorinator unit.

As to foreign electrical steel processes dug out of the ruins of the German war machine, the following is typical: A U.S. military investigator, reporting on metallurgical processes used by a subsidiary of an Austrian steel corporation in producing alloy steels, tool steels, and forgings, said the company was reported to have used

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electric furnaces exclusively for steel production.

In all major U.S. industry groups except apparel and metal mining, the annual load factors of energy purchased increased between 1939 and 1944, the Federal Power Commission reported. These increases varied between 2 per cent for furniture and 35 for transportation equipment. Industries with the largest increases in the load factors of electricity purchased were transportation equipment, from 25 to 60 per cent; government shipbuilding and repair, from 19 to 46 per cent; and machinery from 27 to 48.

How much of this is due to the war, and how much of the trend will continue, is conjectural. Obviously the war contributed to upping the energy demand during the years under review. It has given a spurt to the postwar potential, also.

Power, of course, is a main consideration in the light-metals field which, as stated earlier, is in an uncertain state at present. For the primary aluminum industry, it takes about one kilowatt per thousand pounds of annual capacity, and between 9 and 10 kilowatts are required to make one pound of the finished metal. In the case of the postwar aluminum plants, those being sold or leased by the government, a large proportion is served primarily by Federal power projects, so that any increase in electric consumption here

would be of initial benefit to Federal projects, as this writer has mentioned in an earlier issue. However, a beginning has been made at putting this war-born industry, or the wartime segment of it, into postwar action.

As to magnesium, very modest estimates of requirements are given for the early postwar years, up to 25,000 or perhaps over 30,000 tons annually in the next five years. The estimate depends on the source—the Tariff Commission estimates for chemical use 1,000 short tons annually, but for the same purpose, private industrialists anticipate 3,500, or up to 5,000 tons. Only 1,000 tons of this metal went into aircraft consumption prior to the war. During the war this went to 54,000. Postwar estimates for aircraft indicate 4,000 to 14,000 tons, but these postwar guesses, in turn, are predicated on a civilian aviation of approximately prewar level and a military program of 5,000 planes annually. There are infinite other uses for this metal, however, and the expansion of production obviously will draw further on electric power.

Power is a significant factor in the electrolytic process, which predominates in magnesium production. The Dow process takes $8\frac{1}{2}$ to 10 kilowatt hours per pound of magnesium. At the various mills during the war, power cost per pound ranged from 1.11 cents to 6.55 cents. At Basic Magnesium, the



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plant mentioned above, where much postwar chemical activity is now being launched, power costs in magnesium production in the war period were 2.33 cents per pound. High power costs probably will handicap two of the electrolytic plants. On the other hand, some

plants had access to low-cost natural gas. This may spell a new phase in the trend of utility demand from this industry, or it may not. Coal-generated power in the East may influence costs of this metal, and cost is a prime factor in its competitive future.



Federal versus Private Accounting

"... The government agencies empowered to regulate certain industries or certain types of business or financial activities have found accounting a principal instrument of regulation. They have issued uniform systems of accounts, accounting orders, or accounting rules from time to time. Naturally, these accounting requirements have been designed to assist the agencies in accomplishing the purposes for which they were created. Since these purposes vary widely, it is not surprising that the accounting requirements of the various agencies are neither consistent among themselves, nor with the accounting principles accepted by the accounting profession as those most useful for purposes of the economy as a whole.

"Examples of conflict of opinion appear in a number of recent cases in which independent certified public accountants have qualified their certificates because the SEC required accounting treatment of certain items in the financial statements under its jurisdiction with which the independent certified public accountants did not agree. For example, the following statement appears in a certificate recently published in conjunction with financial statements in a prospectus:

"The Securities and Exchange Commission takes the position that the inclusion of such amounts in 'Provisions for Income Taxes' is inappropriate in an income statement purporting to reflect the results of operations. It is our opinion that the effect of not including such amounts in operating expenses is to overstate net operating income and gross income for the years 1942, 1943, and 1944 by amounts of \$675,000, \$1,519,000, and \$156,000, respectively, and to overstate net income for those years by amounts of \$675,000, \$346,000, and \$156,000, respectively."

—EDITORIAL STATEMENT,
The Journal of Accountancy.



Charges in Lieu of Taxes

Income taxes as utility operating expenses,
even though neither paid nor payable.

By ROBERT E. STROMBERG

THERE has been considerable discussion during the past few years of high corporate income tax rates, of the accounting practice of inserting in the income statement, under the heading of income taxes or charges in lieu of income taxes, not only the income taxes expected to be paid by the company, but also an additional sum equivalent to the reduction in taxes brought about by unusual circumstances in a particular year. For example, a parcel of land may be sold at a \$100,000 loss. With a 40 per cent income tax rate this results in a reduction of income taxes payable of \$40,000. The longer accepted accounting for this transaction is to charge surplus with \$100,000 loss on sale of land and leave operations charged with only the income taxes payable for the year. A more recent practice is to charge surplus with \$60,000 as the loss on sale of land and charge operations \$40,000, captioned "Reduction in Income Taxes Resulting from Sale of Capital Assets at a Loss," or similar terminology.

A recent official pronouncement on

the whole practice is that of the Securities and Exchange Commission in its Accounting Series Release No. 53, dated November 16, 1945, and titled "In the Matter of 'Charges in Lieu of Taxes.' " * The discussion by the commission is complete and thought provoking.

I BELIEVE the proposition under consideration can best be illustrated and thought out on the basis of an extreme example of close cases making bad precedents. This example is provided by the SEC in one that it presented as *reductio ad absurdum*.

It was pointed out, in effect, that reasoning leading to charging surplus with only the net loss on the sale of a capital asset (total loss less reduction in income taxes payable by reason of taking the loss) would, if carried to its logical conclusion, mean that, since interest paid in a given period reduces the income tax payable, a charge in lieu of the income tax reduction should be included next to the actual income

*61 PUR(NS) 193.

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taxes in the operating expense section of the income statement, and an offsetting reduction in interest expense should be made in the financial section of the income statement below the net operating income line.

My thinking on this question leads me to the conclusion that it is not absurd at all, only somewhat revolutionary.

New concepts are often treated as impossible absurdities at birth, then attain a stature of undesirable innovations, and finally reach the points of first limited and then full acceptance.

ONE need but examine any collection of public utility rate cases to find regulatory bodies gravely stating that borrowed capital of a given company is costing 3 per cent, preferred stock capital is costing 4½ per cent, and common stock capital is costing 6 per cent because its market price is such as to yield that on the rate of common stock dividends being paid. The 3 per cent cost of borrowed capital is accepted as a fact because bonds carrying a 3 per cent coupon were sold by the company at a price which netted 100 after deduction of costs of issuance from the gross proceeds.

Income taxes are not taken into

the calculation. Actually, with a 40 per cent income tax rate, the bond money really costs the company 1.80 per cent and Uncle Sam evidences his approval of the method of financing by bearing the other 1.20 per cent of the 3 per cent face of the bonds. The mechanics of sharing the burden is to reduce the income tax liability of the company based on operating income by 40 per cent of its interest expense. The preferred stock and common stock money really costs the whole of 4½ per cent and 6 per cent because dividends are not allowable as a deduction before arriving at taxable income.

The tabulation below based upon a total capitalization of \$300 equally divided between the three sources of capital will illustrate the suggested change in the income statement.

THE effect of the suggested change in reporting interest expense in the income statement is that it highlights the fact that bond money is really costing much less than the nominal rate of interest. This may be a highly significant item in a public utility rate case and would seem to deserve the special accounting treatment suggested. Total cost of capital is reduced by the accounting change with an exactly

	<i>Old Form</i>	<i>Suggested Form</i>
Required income before income taxes	\$20.50	\$20.50
Income taxes (40 per cent of \$17.50)	7.00	7.00
Charge in lieu of income taxes for reduction because of interest on bonds	—	1.20
Net operating income	\$13.50	\$12.30
Interest on 3 per cent bonds	3.00	3.00
Reduction in interest equal to reduction in income taxes because of interest on bonds	—	1.20
Net income available for dividends (\$4.50 to preferred stock and \$6 to common stock)	\$10.50	\$10.50

CHARGES IN LIEU OF TAXES



Income Tax Expense Account

“EXISTING systems of utility accounts generally provide that income tax expense account shall be charged with all income taxes accrued, no more and no less. A tax-inflation example of what this rule leads to is found in the case of the sale of a capital asset at a profit. The entire profit is credited to surplus and the income tax liability resulting from the realization of the profit is charged to income tax expense account.”

counterbalancing increase in operating expenses. The shift causes the income statement to reflect the true facts.

Looking back again to the tabulation it is seen that by the old form of report net operating income is \$13.50 or a rate of return of 4½ per cent on \$300 capital. In the suggested form net operating income of \$12.30 gives 4.1 per cent as the rate of return. The change in accounting might be attractive to regulatory bodies and utilities alike who prefer the reported rate of return to appear at the lowest level possible.

It has always been the accounting result that every time corporation executives make a decision to spend an additional sum for wages or bonuses or advertising or whatnot, only the net effect (the additional sum less the income tax reduction resulting from the spending of it) of the expenditure goes to increase total operating expenses. An

accounting provision that only the net cost of interest shall appear in the financial section of income statements is merely extending the application of this principle on a consistent basis.

EXISTING systems of utility accounts generally provide that income tax expense account shall be charged with all income taxes accrued, no more and no less. A tax-inflation example of what this rule leads to is found in the case of the sale of a capital asset at a profit. The entire profit is credited to surplus and the income tax liability resulting from the realization of the profit is charged to income tax expense account.

I see such an income tax item as more properly chargeable to surplus to offset the profit that occasioned it.

It is argued by some that, since the existence of a reduction in taxes is de-

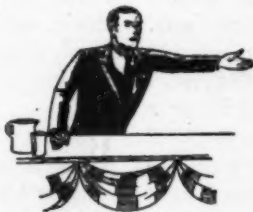
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pendent not only upon having a tax deductible expense, loss, interest, etc., but is equally dependent on the existence of taxable income to offset the deduction, some way might as logically be devised to let revenues share the benefit of the reduction in taxes as to have the entire reduction allocated to the deduction. There is no end to the accounting refinements that could be suggested; the question is where to call a halt to them. A corporation would not exist without revenues. Revenues, in the first instance, are all subject to income tax. It is the coming into being of deductible items for figuring taxable income that creates tax reductions. The deductible items are the proximate cause of the tax reduction and as such would seem entitled to have allocated to them the entire tax reduction.

THE income statement of a public utility which can be used for rate regulatory purposes with a minimum of adjustment is best suited to the purpose. The interest of the investor in a public utility income statement is largely because of the light it throws on prospective earnings. Rate regulation and prospective earnings are complementary factors.

An income statement set up to reflect the income tax effect of surplus items and having the income tax effect of interest expense allocated to that item is usable for rate regulatory and investment purposes alike with less adjustment than one not so constructed.

It will be a blow to accounting progress if the final word on allocation of income taxes among the accounts has been spoken.



The Passing of Price Controls

"It is our earnest hope that if all goes well during the next year the danger of a severe inflation will have passed by the middle of 1947. In the meantime controls should be gradually removed wherever and whenever it is safe to do so. By June 30, 1947, only rent controls and some last remnants of price control in a few isolated fields will remain. When that time comes we will have the deep satisfaction of knowing that we have come out of the war period with a firm foundation on which to build the full production, full employment economy which we all agree our country can and must achieve.—EXCERPT from annual report of OPA to the President, April 8, 1946.

Government Utility Happenings



State Law Compliance by FPC Licensee Unnecessary

BY a 6-to-1 decision, the U. S. Supreme Court upheld the authority of the Federal Power Commission to issue a hydroelectric license to a cooperative in the absence of evidence that the latter had complied with state law pursuant to § 9(b) of the Federal Power Act. The court's decision by Justice Burton at the same time reversed the FPC, as well as the lower Federal court, because the former had refused to issue the license in view of a claim by the state of Iowa that the petitioning cooperative—First Iowa Hydro-Electric Cooperative—had failed to show satisfactory compliance with the laws of the state of Iowa. Only Justice Frankfurter dissented from the court's opinion that it was the duty of the FPC to determine whether or not the cooperative had actually complied with any binding state law on its own activities, instead of dismissing the petition because no evidence of such compliance with state law was submitted.

The court's decision does not necessarily mean that the FPC will issue the license to the cooperative to build the proposed \$14,600,000 dam on the Cedar river near Moscow, Iowa. It does mean that the case must now go back for FPC determination on two points: (1) whether the co-op is actually in the clear with respect to compliance with binding state regulation; (2) whether a license is warranted on the merits of the project. The Burton opinion pointed out that a 1939 state law requiring a state permit for such hydro development had been superseded by the Federal Power Act—since otherwise the state could exercise a veto power over a Federal project.

JUSTICE Frankfurter's dissent pointed out, however, that before the FPC could decide whether a petitioner was complying with binding state requirements, it would have to determine "what the state law requires," and that a proper safeguard of state interest would be to allow a state to make a proper determination of such a question, especially in cases (as here) where the state itself opposed the licensing of the hydroelectric project.

The majority opinion, however, construes § 9(b) of the Federal Power Act as not of itself requiring compliance with state law—but merely a "suggestion to the FPC of subjects as to which the commission may wish some proof submitted to it of the applicant's progress" (in complying with applicable state laws, if any). (For further legal analysis see page 719.)

PUD's Win First Round In State Courts

THE Washington State Superior Court of Skagit county has ruled in favor of the plans of Skagit County Public Utility District to assume responsibility for the proposed \$135,000,000 bond issue to purchase properties of Puget Sound Power & Light Company on behalf of a pool of 15 state public utility districts. The city of Seattle may take a leading part in appealing the decision to higher courts. The decision of Judge W. L. Brickey came somewhat earlier than expected—immediately upon the conclusion of arguments by opposing counsel.

The suit to test the legality of the deal took the form of a "mandamus"

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to order the secretary of the Skagit County District to sign the \$135,000,000 bond issue—an action which he refused to take until approved by the courts.

The Weyerhaeuser Lumber Company contested the right of the Skagit County PUD to purchase and operate properties throughout the western part of the state without additional legislation. A serious argument also was made on the legality of Skagit county attempting to underwrite prospective capital gains tax included in the proposed transactions. The court's opinion, rendered from the bench, did not go into the merits of the issue or refer to the fact that King county and Seattle voters have twice rejected similar PUD proposals and also cast a heavy vote against statewide referendum in 1944, which would have authorized a somewhat similar PUD setup by statutory authority. Counsel for the city of Seattle appeared as friend of the court, but the position of the city's powerful light bureau is reported to be critical of the proposed deal.

Denver Post TVA Series

THE *Denver* (Colorado) *Post* has recently been carrying a series of articles on the Tennessee Valley Authority by L. A. Chapin, *Denver Post* staff writer, who has made a tour of the Tennessee valley for that purpose. Among other interesting items which Mr. Chapin develops in his effort to present a disinterested picture of the TVA, as seen today from various local angles, was an interview in Memphis, Tennessee, on April 25th with Roane Waring.

A few years ago, Colonel Waring attained nation-wide prominence as national commander of the American Legion. He is prominent in the affairs of Memphis, where he is general counsel for the Memphis Street Railway Company. Colonel Waring's reaction to TVA is noteworthy because of its apparent objectivity—favoring some aspects and rejecting others. For example, he believes that TVA is government paternalism, and that cheap TVA power is

possible only because of taxpayers' "subsidies to the TVA." But he said that, "on the whole, TVA has worked out pretty well." Mr. Chapin's interview contains the following provocative passage:

The utility business, of course, was not without its faults back before TVA—probably no business is entirely free of abuses. The utility business had holding companies and some water in its stock, of course.

Where the utilities made their mistake, in my estimation, was in failing to recognize the changes of the times. They listened to high-priced lawyers who told them they could get the courts to stop TVA. They didn't realize the then New Deal had taken over the courts.

The utility companies still would be in business today, buying TVA power and distributing it—at least some of them would be—if they had realized that times had changed.

Now they are out of business in the main, although the Memphis Power & Light Company retained its generating plant and still operates it—selling power to TVA to some extent.

Back when the utilities were fighting TVA, the TVA already had built a lot of dams. I'll never forget what a friend of mine said to me at that time. He said, "Roane, those dams are concrete."

Of course, what he meant was that they were real—they existed. Millions had been spent on them. Nothing could make them disappear. Someone was bound to get the results of that cheap power. The utility companies found out what the results were as far as they were concerned.

MR. CHAPIN quotes Colonel Waring as believing that TVA distributes a lot of "hokey propaganda," and added:

They meddle in anything that they think will bring them publicity, but they are generating a lot of cheap power.

It is cheap because it is subsidized. The taxpayers of the whole country help pay for it, so, of course, the monthly bills are small.

But TVA is a lot of things beside power. You don't see it here in Memphis because we are not in the Tennessee valley. Only the power program affects us.

But over in the valley itself there is going to be a lot of cheap water transportation, too. Those dams are well built. How much they will be affected by silt remains to be seen, but there is no doubt they were well engineered.

There is no river left—only a chain of lakes. TVA has helped stock the lakes. It has built recreation camps. It has boat docks. It has turned the locks of its dams over to

GOVERNMENT UTILITY HAPPENINGS

the Army Engineers to operate and there is no charge for going through.

I have a cruiser here on the Mississippi and I'm going over there to the TVA lakes this summer. A lot of other people will go too.

If you want to raise cattle the TVA, through county extension services, will help you. It is a sort of paternalism all right.

But on the whole it hasn't worked out too badly.

Mr. Chapin's article says that Memphis is looking to the future with confidence. The government already has started work on a new vehicular bridge across the Mississippi to link Memphis with Arkansas.

RIGHT NOW, however, Memphis is banking principally on its proposed \$18,000,000 Mississippi chute project to bring more population and prosperity. Plans of Army Engineers for the project have gone to Washington for approval.

As originated by Major General Max C. Tyler, retiring president of the Mississippi River Commission, the project will provide a deep, sheltered harbor for Memphis, and by improving harbor facilities will provide the city with 9,000 additional acres of water-front industrial sites.

Porter Grace, vigorous young head of the industrial progress division of the Memphis Chamber of Commerce, said the International Harvester Company has obtained one of the last available water-side sites in Memphis and is spending \$6,000,000 erecting a plant to manufacture cotton-picking machinery and other implements.

The site includes 278 acres. The plant will be completed in 300 days and will employ 3,800 persons, Grace has been told.

Grace claims that, by using water haulage, International Harvester expects to save \$1.60 a ton on approximately 100,000 tons of water transportation the first year.

Grace also estimates that 26 new manufacturing firms were established in Memphis in 1945 and 15 more in 1946—to date. He admits, however, that cheap electric power is probably not the deter-

mining factor in bringing the new industries to the Memphis area. Chapin quotes Grace on this point as follows:

Cheap electric power is one factor in bringing new industry to Memphis. It has not been the determining factor in any case of which I have heard. Cheap transportation is more important. Except in certain industries, such as the manufacturing of chemicals, power costs are not a determining factor.

INQUIRIES by Chapin indicated that only one private utility distributing company remains in western Tennessee. It is the Bells Light & Water Company, which serves the small towns of Bells and Alamo.

From what Memphis people say, that company, which now buys TVA power and distributes it at rates prescribed by TVA, has stayed in business largely because of the regard of the local people for the owner of the system, George Lewis, who also is a banker and cotton-gin operator.

The people of Bells and Alamo voted against taking over the Bells Company from Lewis. As a result, the Bells Company is one of only three small utility companies in the entire state which distributes TVA power.

CIO Government Workers' Union Goes Pro-Russian

THE Washington, D. C., local of the United Public Workers of America has adopted the pro-Communist foreign policy resolution sponsored by the national CIO union at its recent Atlantic City convention. This union includes employees of Federal, state, county, and municipal governments—including some others engaged in publicly owned utility enterprises. The position of the United Public Workers Union differs diametrically in this respect from the position recently taken by the CIO Utility Workers of America—a national organization of employees of business-managed utility companies organized by the CIO group. The latter, upon coming into newly con-

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solidated existence early in April, had barred Communists from even holding membership. This is provided in a clause in the Utility Workers Union constitution, which requires the expulsion of any member who joins the "Communist, Nazi, or Fascist parties," and prohibits such people from holding office in the union. Barring membership to a Communist is the most extreme rightest step taken by any national CIO union, some of which, however, had previously barred Communists from holding union office.

The newly consolidated United Public Workers of America, however, at its subsequent Atlantic City convention, followed an opposite course. It adopted a proposed constitution which leaves open the door to strikes against city, county, state, and Federal governments. The union, which embraces all types of government workers, including some in utility lines, also unanimously endorsed resolutions urging the United States: (1) to be more friendly with Russia; (2) to cease unfriendly attitudes towards Russia; (3) withdrawal of American troops from nonenemy countries; and (4) call another Big Three meeting. It shouted down resolutions of condemnation against Communists, Fascists, and other un-American elements.

THE District of Columbia, Local Number 1, numbering about 3,000 members of the UPWA, in about 30 Federal government agencies, rejected by a voice vote a motion to censure the Atlantic City convention for the resolution which condemned all nations occupying foreign countries except Russia.

Robert Reynolds, chairman of the U. S. Civil Service Commission branch of the District of Columbia, led a losing fight against the resolution. "There is a Communist party," Mr. Reynolds said. "It has a policy. Its policy is to advance the interests of Russia and bring about revolution.

"This is a Communist party-line resolution."

When Mr. Reynolds proposed that the Atlantic City convention be censured,

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District of Columbia Local President Henry Daniels of Agriculture ruled him out of order on the ground that the local had previously adopted an identical resolution itself. Mr. Reynolds appealed the ruling but on a voice vote of the 270 present was overwhelmed.

"Not more than about a dozen supported me," he said. Mr. Reynolds told the local that the new UPWA is "potentially the best government union—but it needs to be cleansed of Communist influence."

"Communism," he said, "has no place in a government union."

He invited those who shared his views to meet him after the meeting, but only five persons approached him, he said, and two of these wanted to argue for the resolution.

Municipal Plants Lose Twice

IN Clearwater, Florida, on April 9th, by a vote of 7 to 1, a new 30-year franchise was voted to the Florida Power Corporation, already serving this community. The utility conducted an open and energetic campaign. Unofficial figures, 1,840 for renewal as against 260, indicate one of the most lopsided defeats for municipal ownership anywhere in recent years.

In Sterling, Colorado, a proposal to acquire facilities for municipal electric service was voted down 2 to 1.

Public Ownership Initiative

AN initiative measure was recently reported being circulated in the state of Washington to obtain the necessary 50,000 signatures of registered voters to place it on the ballot next November. It would require that any proposed acquisition of an established electric utility by a public utility district be referred to the people for their approval or rejection. It would not, however, require bond issues for expanding or improving existing public power plants to be submitted to a vote.



Wire and Wireless Communication

THE case of Western Union Telegraph Company for generally increased rates of approximately 10 per cent to raise an additional \$19,000,000 revenue a year for offsetting recent wage increases, opened up before the Federal Communications Commission on April 29th. Three state commissioners were "sitting in" with three members of the FCC—following the coöperative practice established by the National Association of Railroad and Utilities Commissioners for handling such proceedings of interest to both state and Federal regulatory authorities. FCC Commissioner Ray Wakefield was chairman, while Commissioners Paul A. Walker and Clifford J. Durr were the other two FCC members assigned. The three state commissioners assigned were Donald Hacking of Utah, Matt L. McWhorter of Georgia, and Carroll L. Meins of Massachusetts.

First witness for Western Union was Joseph L. Egan, president, who estimated that present gross revenue under prevailing rates will amount to \$183,000,000, leaving a deficit of some \$19,000,000 for the current year over and above operating expenses.

Mr. Egan and Walter P. Marshall, Western Union treasurer, also developed the fact that the final act of the National War Labor Board last December 29th increased Western Union payrolls approximately \$23,500,000 a year, together with an award of some \$31,000,000 to the workers in retroactive wage claims. Orla St. Clair, special counsel for West-

ern Union, called this situation a real emergency justifying the rate increase petition.

IT was developed that the OPA, through a letter by its general counsel, Richard H. Field, to the acting chairman of the FCC, had recognized the emergency character of Western Union's plight by declining to intervene in opposition against the proposed rate increase (although Mr. Field's letter stated that this was not in itself to be taken as an indication that OPA had approved the actual increase proposed).

Examination of the company witnesses was expected to follow the testimony in chief—such examination beginning the week of May 6th. In addition to such examination as the FCC staff may develop, opposition to the company's proposal was expected from two intervening labor unions, the American Communication Association (CIO), represented by its general counsel, Victor Rabinowitz, and Commercial Telegraphers' Union (AFL), represented by its international vice president, Adolph Brungs. E. F. McNaughton, of the California Railroad Commission staff, and Frederick G. Hamley, general solicitor of the NARUC, were on hand to represent the state commissions' interests at the bar. FCC staff witnesses slated to testify were R. D. Jones, rate engineer; Dallas Smythe, economist; Robert E. Stromberg, rate accountant; and John Lambert, assistant tariff chief.

Opposition to the proposed increase

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was expected from the Treasury Department's division of procurement, represented by its attorney, David Kosh, although it was not definite whether the procurement division would actually send a witness to the stand. The Justice Department also was expected to register some opposition. Federal government opposition is centered chiefly on the proposed removal of preferences for government telegraph messages.

IN addition to pleading for relief by way of rate increases, Western Union President Egan called for reduction of the present excise tax of 25 per cent on telegrams which, he pointed out, is higher than the so-called luxury tax. Telegrams are not and should not be placed in the luxury class, he said, and certainly their use should not be penalized by prohibitive taxation even in excess of luxury item taxes.

The witness referred to the high proportion of payroll expenses which absorb in excess of 75 per cent of all company expenditures. Referring to the possible alternative of government ownership, Egan recalled a public opinion survey made several years ago which showed 76 per cent of the general public and 93 per cent of the businessmen of the nation opposed to such an arrangement. Mr. Egan likewise condemned the proposal for a government subsidy.

* * * *

IN his recent annual report to stockholders, Colonel Sosthenes Behn, president of International Telephone & Telegraph Company, made these interesting comments, in contrasting the telephone service rendered by private companies with that of nationalized systems:

Private enterprise in the field of communications has no apologies to make. Wherever it has been given reasonable freedom to develop and has been allowed to charge equitable rates to ensure the provision of the needed capital for continued improvement and expansion, it has generally been able, over a period of time, to pay higher wages and, at the same time, to furnish better service at lower rates to the users. Such enterprises have led in the de-

velopment of telephone and telegraph communications, both wire and radio, and the best example may be found in the United States. There is no better example of service in peace and war than that of the great American telephone system. We have frankly followed this splendid example in our activities, and, in a number of cases, our engineers have pioneered in important improvements.

Nevertheless, it must be recognized that the nationalism and government ownership and operation of public services have prevailed in many countries. Government operations in a few of these countries have met public demands; but in most cases the development by government departments has inadequately met the demands of service, and, generally, has not extended plant to create demand.

Under satisfactory conditions, we favor the expansion of our operation activities, which implies the extension of American technique and practices, and increases the export of American equipment to many parts of the world where eyes are turned to the United States for leadership. This, today, is a responsibility and an obligation which should not be ignored.

We are on the record, however, as believing that the American international communications service should be integrated into one American enterprise. We believe it should be a private enterprise, subject to appropriate government regulation; but this is a matter in which the lead must be taken by our government.

THIS informed comment upon the shortcomings of telephone service encountered in foreign lands, where the operations are under government direction will, no doubt, be a reminder to many a U. S. business traveler abroad of annoying personal experiences. Colonel Behn's rich background of experience with all types of telephone service and organizations all over the world lends much authority to what he has to say on the subject.

* * * *

THE Southern Bell Telephone & Telegraph Company, which up to now has been furnishing telephone service through the Army, has been requested to assume full charge of telephone operations at Oak Ridge, Tennessee, the Army announced recently.

The Army will discontinue its operation and supervision of the system on a

WIRE AND WIRELESS COMMUNICATION

date to be announced later after definite plans have been formulated by the telephone company, it was learned. The program is in line with the Army's desire to have Oak Ridge function in the manner of a normal community and will relieve the government of certain subsidies attendant to present telephone service which can no longer be met in the program of more economical operations at Oak Ridge, a spokesman explained.

Under the proposed plan, the transfer will be effective within the next few months, during which time details and arrangements will be worked out by Southern Bell Company for operating the entire system. Until formal announcement is made of the transfer, all commercial transactions regarding telephone service at Oak Ridge will continue to be handled under arrangements now in effect.

Among the advantages of the change-over will be an eventual expansion of telephone service to more Oak Ridge residents, but it was emphasized that this is contingent upon the ability of the company to obtain necessary materials, of which there is a shortage all over the country at the present time.

Proposed plans for Southern Bell operation of an Oak Ridge exchange include the establishment of a business office for the convenience of the public. Following Southern Bell's assumption of operation of the system, all transactions with the company would be handled at this office, it was explained.

W. D. Bales is the manager of Southern Bell's present Oak Ridge organization, which must be materially expanded under company operation of the system.

IN making the announcement, Colonel P. F. Kromer, chief of Central Facilities and Services Division, pointed out that the Army has operated the telephone exchange, as it has other functions of a like nature at Oak Ridge, since the project was created. Colonel Kromer said:

Under the existing arrangements, the Southern Bell Company has furnished service to the Army which, through the Signal

Corps, operates the telephone system to supply its own requirements and the recognized business and residential service needs of key personnel of the Clinton Engineer Works. Operation of the telephone system by the Army has included the handling of all commercial transactions such as applications for service, the rendering and collecting of bills, and other matters.

Military necessity dictated this course of action, it being essential during the war that the Army should exercise full control over all operations at the project, including its telephone system. Now that these restrictions are no longer necessary, the Southern Bell Company has been asked to come into the community and operate the telephone system as it does the telephone system serving other cities in Tennessee and throughout the Southeast. Under the proposed plan the Army will subscribe to the service to the extent required to fill its official needs.

This is in keeping with the Army's desire that Oak Ridge assume the functions of a normal community as quickly as practicable.

Further information concerning the transfer will be announced when final arrangements are completed, Colonel Kromer stated.

* * * *

IMPROVEMENT of clear-channel radio service to the country by more equitable allocation of existing facilities, and the removal of present restrictions on power when increases would enable large sections of rural America to hear more and better programs, were recommended by Mark Woods, president of the American Broadcasting Company, at recent hearings before the Federal Communications Commission. Mr. Woods said:

FM, if properly developed by the broadcasting industry and by the FCC, can, in my opinion, be brought up to a point of public acceptance where eventually it can and should replace regional and local AM (standard) stations serving urban areas. Present AM channels now devoted to local and regional frequencies then can become available for use as clear or semiclear channels with which to further serve rural America with sky-wave service.

Because the required interval "may be five, seven, or even ten years in length," the witness recommended appraisal by the commission without delay of the use made by each clear-channel station of the facilities operated by it on its assigned

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channel to determine whether or not it is rendering the maximum in service. He said:

As a result of such appraisal, in some cases it may be found to be in the public interest to place additional stations on clear-channel frequencies, while in others the clear-channel status may be maintained.

If any clear-channel station is contributing to excessive duplication of a program service, it should have its application for renewal of license examined with unusual care to determine whether the renewal applied for is really in the public interest.

At the same time we recommend that the commission take affirmative action by the adoption of a regulation which would enable stations to enlarge the area served by them for going above the present ceiling of 50,000 watts on power.

* * * *

A RADIO facsimile machine no larger than a portable typewriter that "prints" a 4-column "newspaper" at the rate of 500 words a minute as well as pictures and advertisements, and does it with excellent clarity when linked with an ordinary FM receiver attuned to an FM facsimile program, received its first postwar showing recently at the laboratory of Radio Inventions, Inc., New York city.

John V. L. Hogan, radio engineer, who demonstrated the apparatus, developed during the war and recently brought to its present state through the coöperation of 20 FM station owners of the country, said experiments for home reception would begin this year.

Regular commercial programs, with program sponsors, he went on, will be "attempted after experimentation with programs determines what programs people want."

He said the making of facsimile sending and receiving equipment with which to set up the experimental service was now being undertaken by the General Electric Company. FM stations in the metropolitan area that coöperated with Radio Inventions to bring facsimile to its present perfection, Mr. Hogan continued, included WQXQ, FM outlet associated with WQXR, owned by *The New York Times*, and of which Mr. Hogan is president; WBAM, WOR FM

station; WABC FM, Columbia Broadcasting System FM station; and WABF, recently purchased by Ira A. Hirschmann for Metropolitan Television. The entire group is known as Broadcasters Faximile Analysis.

* * * *

TELEPHONE service between the United States and Sweden, suspended since December, 1941, was resumed on April 25th. The rate for a 3-minute call between any two points in the two countries has been reduced to \$12. This is less than half the prewar figure for a call from New York.

Contact with Sweden is established over a short-wave radiotelephone circuit between New York and Oslo, and land wires from the Norwegian capital into Sweden.

The Long Lines Department of the American Telephone and Telegraph Company operates the radio stations on this side of the Atlantic and on the other side they are operated by the Norwegian Department of Telecommunications.

* * * *

LOWER rates for overseas telephone messages between the United States and Eire became effective April 18th, when the charge for a 3-minute conversation between any two cities in the two nations was reduced to \$12. The previous rate was \$21.75 for a call between Eire and New York, and higher for points further west. At the same time the service was resumed for public calling on a full peacetime basis.

* * * *

THE next three years will see the installation of 25,000 or more mobile units in perhaps 100 cities of the United States which will send and receive calls through telephone company operated mobile radiotelephone systems, Eustace L. Florance, New York, assistant vice president of the American Telephone and Telegraph Company, predicted at the annual 2-day convention of the Indiana Telephone Association held in Indianapolis May 1st and 2nd.

Financial News and Comment

By OWEN ELY



Two New Utility Operating Company Stocks

THE public recently was offered two new utility operating company common stocks—Scranton Electric and Public Service Company of New Hampshire.

Scranton Electric was sold May 1st by American Gas & Electric, sole owner of the common stock. One million, two hundred and fourteen thousand shares (\$5 par) were offered by a syndicate headed by Mellon Securities and Smith, Barney at \$22.50, the net proceeds (after allowing an underwriting discount of \$1.18 per share) amounting to \$25,881,266. Earnings and dividends on the stock for the past five years have been as follows:

Year	Earned	Paid
1945	\$1.04	\$1.01
1944	1.04	1.03
1943 .....	.93	.93
1942 .....	.93	.82
1941	1.02	.95

These earnings figures were not adjusted to a *pro forma* basis. The company's bond issue was reduced nearly one-third from cash on hand in 1942, and the \$6 preferred stock was refunded by a 3.35 per cent issue simultaneously with the common stock offering. Earnings for 1945 adjusted for the reduction in preferred dividends would have amounted to about \$1.14 a share on the common stock; and, adjusted to the new tax law, the amount would be increased to \$1.25. Using the latter figure, the stock was offered at about 18 times earnings. Based on the indicated \$1 dividend rate (an initial quarterly dividend of 25 cents is expected to be paid about August 1st), the stock yields nearly 4.50 per cent. This yield is somewhat on the high side as

compared with present yields for high-grade utility operating company stocks.

Scranton Electric has an excellent capital structure—funded debt is about 28 per cent, preferred stock 32 per cent, and common stock equity 40 per cent. Plant account was reduced about \$6,355,000 in 1944, book value being reduced to original cost "when first devoted to public service." A remarkable fact is that the depreciation reserve amounts to some 52 per cent of plant account. This is due in part to the fact that American Gas & Electric has used the straight-line accrual method for its subsidiaries.

ANOTHER reason is that one of the two main generating stations was very heavily written down some years ago, because at that time the management was concerned over the possibility of a cave-in because of the fact that mining operations had been conducted under this area. However, Scranton Electric purchased the coal under its property, mining was discontinued, and a large amount of ashes was flushed into the caverns to reduce the hazard. Engineers have certified that the foundation is in no danger, and there appears to be no evidence of settling in the building itself.

Considering the very favorable statistical setup, the stock might have been expected to retail on a 4½ per cent or even a 4 per cent basis had it not been for (1) the high proportion of earnings paid out in dividends, and (2) the rather drab history of the Scranton area. The city is the center of the anthracite mining region and, as is well known, the hard coal industry has been on the decline, more or less, since the famous strike of 1926. Residential consumption of coal has been

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hard hit by competition from oil, and natural gas has been used on an increasing scale by industrial companies and for admixture with manufactured gas (or as a substitute).

The city of Scranton has, however, waged a game battle against loss of the coal business. The chamber of commerce in recent years has gone into high gear with a promotional campaign to bring new industries to this area, and the program has met with considerable success. Thus the value of coal mined in Lackawanna county in 1943 represented only one-third of the \$145,600,000 value of all products produced in the county. Back in 1926 coal miners represented 70 per cent of the total industrial employment, while the figure has now dropped to less than 24 per cent.

MOREOVER, the company's sale of electricity to the mines has not fallen off in the same ratio as mining operations, for many mines formerly generated their own power but now buy from the company; also, the mines have been increasingly mechanized. Thus, since 1935, the annual revenue from mining customers was actually increased about 47 per cent. (Some of this gain is, of course, because of the differing levels of business activity in the two years.) In 1945 the company's revenues were 33 per cent residential, 28 per cent coal mining, 16½ per cent other industries, 14½ per cent commercial, and 8 per cent municipal and miscellaneous.

A novel feature of the chamber of commerce program is the raising of special funds among local businessmen (totaling \$1,700,000 recently) to buy or construct factory buildings in order to attract new business. During the war Murray Corporation produced munitions in a government-built \$7,000,000 factory. The chamber's local company bought this building from the government and invited Murray to lease the building; Murray will now make stoves, sinks, kitchen cabinets, and household appliances. Several smaller factories have been constructed and leased to other industries.

Public Service Company of New

Hampshire is a subsidiary of New England Public Service Company. The current financing includes elimination of \$2,000,000 serial notes, refunding of the \$6 and \$5 preferred stocks by a smaller 3.35 per cent issue, changing of the common stock from no par to \$10 par, and the offering of \$5,000,000 new common stock in order to provide necessary funds.

IN 1945, according to the *pro forma* income statement in the bidding prospectus, the company earned \$1,436,589 after allowance for the new preferred stock dividend requirements. To this could be added the tax savings which would have been available under the new law—amounting to about \$634,000—making total earnings about \$2,070,000, or nearly \$3 a share on the number of common shares to be outstanding on completion of the current financing. The management has indicated its intention to pay a common dividend on or about June 1st of approximately \$270,000, or some 39 cents a share, making the indicated annual rate \$1.56.

The winning bid for the common stock was submitted by a group headed by Kidder, Peabody & Co., which offered \$5,000,000 for 133,142 shares of common stock, or about \$37.55 a share. At this writing the stock has not yet been publicly offered but, subject to SEC clearance, the retail price is expected to be \$39 a share. Assuming that this is the correct price, the yield works out at 4 per cent and the price-earnings ratio on a tax-adjusted *pro forma* basis is about 13 times. Two other bids were submitted at \$35.22 and \$33.79, respectively. Assuming the same underwriting commission of about 1½ points, these bids would have indicated retail yields of about 4.25 per cent and 4.43 per cent, respectively.

In making its winning bid, Kidder, Peabody & Co. probably took into account the following factors: Rates appear to be reasonably low as compared with neighboring companies, and relations with the state commission are reported to be good. The capital structure after consummation of the new financing is about

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48 per cent bonded debt, 24 per cent preferred stock, and 28 per cent common equity, based on original plant cost. Local industry is said to be well diversified, with fair growth possibilities and benefits to be derived from improving tourist business. A wage increase of about 10 per cent has been allowed (negotiations with transit employees are still in progress), and labor relations are said to be satisfactory.

THE major part of the wage increase was reflected only in the latter half of 1945. Also a rate cut was instituted March 1, 1946, amounting to \$340,000 annually. Despite the increased wages and the rate cut, however, the balance after charges for the month of March (as reported by Moody's Investors Service) was \$206,766 compared with \$158,607 last year.

In considering 1945-6 earnings, allowance must be made for the fact that the company has been favored by excellent water conditions for its hydroelectric operations. It is estimated that, in a year of low water supply, net earnings might decline about 10 per cent as compared with a year like 1945.

A possible factor in the bidding is the

conservative nature of the initial dividend rate, which amounts to only a little over half the estimated current earnings. It would seem reasonable to expect that the rate will be stepped up (perhaps by payment of extras) if earnings continue to run at the current rate.

It would seem logical to expect that perhaps two-thirds or three-quarters of the earnings might be paid out in dividends, which would eventually afford a more generous yield.

Wall Street Analyses of Utility Securities

JOSEPH TAL & Co. thinks that the new North American Company plan "touches on such controversial points that it is unlikely to be consummated without lengthy legal proceedings. While it indicates an ultimate potential value of around 45 for North American common stock, we feel that the present market price of 36½ gives a fairly full value to the stock's immediate prospects."

Freeman & Co. has prepared a study of *Queens Borough Gas & Electric* preferred stock, which has total claims of about 150 and "probable worth of

TRANSIT COMPANY STOCKS

	Where Traded	Price About	Recent 12 Mos.	Share Amount	Earn. Amount	Price-earn. Ratio	Div. Rate	Yield About
Baltimore Transit	O	9	Dec.	(d)	—	(a)	—	—
Los Angeles Transit	O	12	Dec.	\$1.16E	10.4	.25	2.1%	—
Rochester Transit	O	11	Dec.	.46	23.8	1.00	9.1	—
Syracuse Transit	O	30	Dec.	2.61	11.4	2.00	6.7	—
Twin City Rapid Transit ...	S	22	Dec.	3.27	6.8	(b)	—	—
Kansas City Pub. Serv.	O	7	Dec.	1.05E	6.7	.30	4.3	—
Third Avenue Transit	S	14	Dec.	D3.32	—	(c)	—	—
St. Louis Pub. Serv. "A" ...	O	24	Dec.	1.68	14.4	1.00	4.2	—
Eastern Mass. St. Ry.	O	6	Dec.	8.72	(a)	(a)	—	—
Capital Transit	O	38	Dec.	2.51	15.2	2.00	5.3	—
Phila. Transportation	O	9	Dec.	1.10	8.2	.80	8.9	—
Duluth-Superior Transit ...	O	14	Dec.	5.30	26.5	NA	—	—
Cincinnati St. Ry.	O	18	Dec.	1.54	11.7	1.40	7.8	—
National City Lines*	C	43	Dec.	2.62	16.5	1.00	2.3	—
Chic. So. Shore & So. Bend .	O	16	Dec.	1.96	8.2	1.20	7.5	—

S—Stock Exchange. C—Curb. O—Over counter or out-of-town exchanges. NA—Not available. D—Deficit. E—Estimated. *Holding company controlling a number of bus lines over separate local systems. (a) Arrears on preferred stocks. (b) Seven per cent preferred stock (with arrears of \$51.14) redeemed April 20th; regular dividends paid on new prior preferred stock. (c) Full interest not paid on income bonds. (d) Six dollars and sixty-eight cents earned per share on \$5 preferred stock on which there are arrears of about \$44.

PUBLIC UTILITIES FORTNIGHTLY

115" under the treatment accorded in the Long Island Lighting Company plan.

Ira Haupt & Co. has published an analysis of *Middle West Corporation*, estimating the potential workout value at \$37 to \$40 a share. It divides the portfolio into three sections: (1) items likely to be distributed, (2) those likely to be sold, and (3) those likely to be retained. Respective values for each group are estimated at \$17.80, \$6.70, and \$12.70 to \$15.70.

Goldman, Sachs & Co. has prepared a memorandum on *Midland Utilities, Midland Realization, and Northern Indiana Public Service*. Purchase of the Midland stocks, according to this study, is in effect a purchase of Northern Indiana at about 14 times latest reported earnings and 10½ times indicated potential earnings of \$1.75.

Eastman, Dillon & Co. has published and advertised a brief analysis of the St. Lawrence waterway project, based on a recent Federal Power Commission report to a Senate subcommittee. The power development would provide 6,300,000 kilowatt hours per annum to New York state at a plant cost of about \$98,000,000. (Because of the constant flow of the St. Lawrence, no stand-by steam plant would be necessary.) The cost of such power delivered to New York city is estimated at only 2.51 mills per kilowatt hour compared with steam-plant cost at Waterside station of 7.35 mills. The study concludes:

If the St. Lawrence project becomes a reality, an opportunity will be offered for the privately owned electric utilities to obtain low-cost power. This power should have a ready market in the region to satisfy postwar demands of industrial and domestic consumers. Should the privately owned utilities obtain this St. Lawrence power, the value of the interests of investors in private utilities in the northeastern United States might well be enhanced rather than decreased.

THESE conclusions seem a little hasty until critical analysis of the FPC estimates is possible. In the past, some of the commission's statistical forecasts have proved erroneous. Several years ago private engineers claimed that steam

power could be produced more cheaply than St. Lawrence power.

Goodbody & Co.'s monthly market letter of April 19th discusses the subject, "Utility Holding Company Shares Possessing Higher Workout Values and Growth Prospects."

Baker, Weeks & Harden in its research department bulletin of May 3rd discusses *Pacific Gas and Electric* common, currently around 44½. It points out that, in addition to earnings of \$2.16 last year, the company paid excess profits taxes equal to \$3.78 a share. Rate reductions negotiated with the California Railroad Commission had been less drastic than feared, amounting to about \$6,810,000 on an annual basis (about equally divided between the electric and gas services), which would be a little less than half the estimated tax savings. Also, the company's refunding savings, which totaled \$2,250,000, were only partly reflected in last year's income account. The company's balance sheet position is strong, the depreciation and amortization reserve equaling nearly 24 per cent of plant account, while capitalization is 46 per cent funded debt, 22 per cent preferred stock, and 32 per cent common stock equity. Electric rates are low and usage is above the national average. The current yield of 4½ per cent on the common stock compares with rates of 3.2 per cent to 4.2 per cent for other high-grade issues.

In an earlier bulletin Baker, Weeks & Harden had revised its estimate of the liquidating value of *Electric Power & Light* common upwards to around \$42-\$50, based on the prevailing market price of United Gas around \$20. However, it was assumed it would be unnecessary to give preferred holders the entire amount of redemption price and arrears.

THE recent trend, however, has been to satisfy senior stockholders in full, in order to avoid litigation; and in the Northern States Power Case it is proposed to give a 10 per cent bonus if stockholders will accept stock instead of cash. Apparently, the same trend is indicated

FINANCIAL NEWS AND COMMENT

in the present case, for on May 2nd Electric Power & Light Company announced that it would file an amendment to its general plan, proposing to offer 11 shares in exchange for each share of its own \$7 preferred and 10 shares for each share of \$6 preferred.

Since the \$7 preferred is only entitled to about \$200 and the \$6 preferred to \$187, it is obvious that at a price of 20 there would be a substantial bonus over these amounts. However, only a relatively small percentage of United Gas is outstanding (about 95 per cent is held by Electric Power & Light) and the stock has now declined to 18½ (possibly on the basis of semiarbitrage trading), which price would just about equal the preferred claims. Electric Power & Light's \$7 stock is currently quoted at 173 and the \$6 at 159. Failure of these stocks to discount the plan may be because of a later announcement that Electric Bond and Share opposes the Electric Power & Light plan and will promptly file another plan to provide fairer treatment.

Straight-line Depreciation Reserve Again an Issue

SOMETIME ago Consolidated Edison of New York advised its stockholders that it was considering a broad refunding program for practically all its noncallable funded debt, as well as for the big issue of 5 per cent preferred stock, and there has been some conjecture in banking quarters regarding the delays in this ambitious program. Last summer the company got its merger proposal through the New York Public Service Commission with only moderate delays, yielding a rate cut as the necessary concession.

It now appears that the state commission may demand another "pound of flesh" for approving the refunding program. A decade or so ago the question of depreciation accounting was a perennial issue between Consolidated Edison and Albany—the company held that its retirement policy was the proper way to accrue a plant reserve. It was finally compelled to revise its ideas and initiate reg-

ular depreciation accruals. While the reserve is increasing, it is still only about 14 per cent of plant account and remains well below the amount required to meet Chairman Maltbie's ideas of retroactive straight-line depreciation (understood to have been substantially enforced in the Niagara Hudson Case).

A proposed small refunding for Yonkers Electric Light & Power bonds (guaranteed by Consolidated Edison) appears to be a "guinea pig" for the larger Edison refunding program. An expert witness put on the stand by the state commission at the recent hearings testified that the company's reserve should be increased substantially, which would permit reducing the current depreciation accrual. Presumably the same arguments will be presented later with respect to the Consolidated Edison figures.

Progress with the Heat Pump

WE have had occasion in this department to comment on the possibilities for electric house heating, which if realized might prove a tremendously profitable field for expansion of load. Because of the high cost of distributing current, however, this is only currently feasible in certain areas where Federal hydro power is available at low cost and where climatic conditions are favorable. In other sections, the only apparent solution lies in the development of the heat pump.

Philip Sporn, executive vice president of American Gas & Electric Service Corporation, recently presented a paper on "Heat Pump Report and Program" before the annual conference of the Southeastern Electric Exchange, which was reprinted in full in the *Electrical World* of April 27th. He described research efforts being made by the Pacific Coast Electrical Association, Inc., Commonwealth Edison Company, the Southeastern Electric Exchange, American Gas & Electric, etc. Ohio Power Company is installing a 15-horsepower heat pump using air as the heat source, in combination with an off-peak heating and cooling storage tank.

PUBLIC UTILITIES FORTNIGHTLY

Muncie Gear Works of Indiana and Drayer & Hansen Company of Los Angeles have brought out small heat pump units.

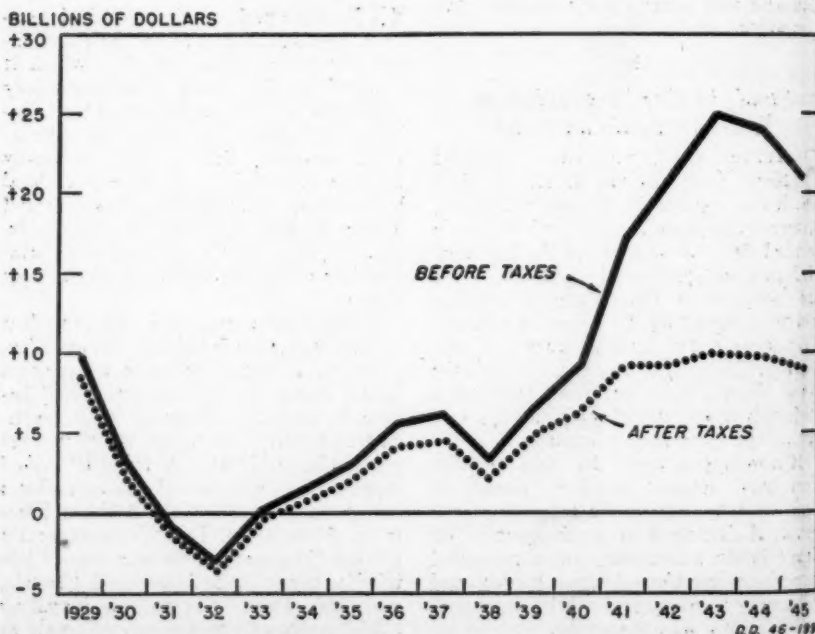
Mr. Sporn feels that results to date warrant a promotional program on a much broader scale, but it will be necessary for utilities and industrial companies to cooperate in the development program, since present available equipment is not suitable for promotional use by the utilities. American Gas has sent to 11 manufacturers and 50 utility companies a tentative set of specifications, covering the design of a self-contained heat pump air-conditioning unit, with the idea of producing 1,000 such units for practical tests. The industrial and utility companies will be asked for comments in

order to revise these working specifications. Qualities desired in the final product are reliability, operating economy, reasonable first cost, low maintenance cost, compactness, and neat appearance.

MR. SPORN thinks that this program may require two years or more. The most practical immediate use would not be for house heating, but for a domestic hot water heat pump. He thinks that such a pump (with a 50-gallon unit storing water at 130 degrees Fahrenheit) would use only one-half or one-fourth as much electricity as an electrical resistance water heater, and would be reasonable in cost, and have negligible maintenance cost. Specifications for such a pump are now being developed.



CORPORATE PROFITS BEFORE AND AFTER FEDERAL AND STATE INCOME AND EXCESS PROFITS TAXES



Source: U. S. Department of Commerce.
 Reproduced from *The Survey of Current Business*.

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What Others Think

Rule of Law Usurped by Federal Agencies?



IN the spring number of *American Affairs*, a quarterly of opinion published by the National Industrial Conference Board, appears an article—"What Is Happening to the Law"—by Dr. Roscoe Pound, former dean of the Harvard Law School, in which the view that "law is whatever is done officially" is challenged.

This article was reviewed in some detail in the April 24th issue of the *New York Journal of Commerce*. It is most timely, and the comments of Dr. Pound are a distinct contribution to this important question. In the review referred to it states that this eminent authority on the law suggests that immediate and effective checks be placed on the "administrative absolutism" of Federal agencies for the "exemption from judicial scrutiny of its action seems to be the ambition of every Federal administrative agency, and is urged by a group of writers and teachers with increasing insistence."

As a result, he says,

with the multiplication of these agencies, the increasing subjection of every form of activity to administrative regulation, and hostility of administrative agencies to all attempts to impose effective legal checks upon them, we have been coming in practice to a condition of what may well be called administrative absolutism. This is nothing short of revolutionary in our American polity, and some academic teachers of the science of politics do not hesitate to pronounce it a revolution and to praise it as such.

Instead of a law which thinks of citizens and officials as equally subject to law, we are told of a public law which subordinates the citizen to the official and enables the latter to put the claims of one citizen over those of another, not according to some general rule of law but according to his personal ideas for the time being.

The review continues that Dr. Pound

declares that many of the administrative agencies

entertain complaints, institute investigations, begin what amount to prosecutions before themselves, allow their own subordinates to act as prosecutors, and often make adjudications in conference with those same subordinates.

"All this," he finds, "runs counter to the most elementary and universally recognized principle of justice."

UNDER the rule of law, Dr. Pound cites the protection of the citizen that is afforded by a scrupulous hearing on both sides on every point, care of the courts to adhere to the high standards of a great profession, the keeping of detailed public records of evidence and decisions, and the opportunity for independent and unprejudiced review of a judge's decision.

"In contrast to the rule of law with its stringent checks on possible injustice," he observes, "is the absence or practical ineffectiveness of checks on administrative rule making and action."

It is noted that although administrative rules and regulations often have the force of law, and affect interests of as much importance to individuals as those affected by statutes or rules of court, and sometimes more, Dr. Pound says:

Usually the first knowledge that those affected have of a rule is after it has gone into effect. The first opportunity they have to object to it is usually after it is sought to be enforced against them and they may be afforded an opportunity to attack it in the courts.

By this time serious and even irreparable injury may have been done to an individual and his business. Moreover, the scope given to administrative rule making today is so wide that challenging of details in the courts is not easy and often is not effectively available.

PUBLIC UTILITIES FORTNIGHTLY

Frequently, the regulations seem to be framed on the assumption that the case against the respondent has been established in advance and so it is a waste of time to allow him to make his case. There is little idea of fairness as between government and the citizen.

The interests of private persons are held negligible in the zeal to get results. The tendency is to weight procedure heavily in favor of the government or the bureau; to assume that those charged are only filibustering or are malefactors of great wealth, and that hearing their side is only a formality.

Citing many cases where orders of the National Labor Relations Board, the Federal Trade Commission, and the Federal Power Commission were set aside, as being in the courts' language, "barren of evidence," and "without sufficient evidence," Dr. Pound says that a number of agencies claim authority to disbelieve evidence "which is positive, uncontradicted, and not inherently improbable," and that a high government official has intimated that Congress intended one administrative agency to be unfair.

As to claims that simplicity of procedure and nontechnical method are the advantages of administrative justice, and that the agencies cannot exercise their investigatory as well as their determining functions in any other way, the author says:

I submit that their investigating functions can be carried on by methods which will give full hearing to both sides and full opportunity to those under investigation to meet, refute, or explain everything that is to be used against them, and that if after investigation the agency desires to prosecute it should be required to do so in the courts and not before itself.

Reference is made to Dr. Pound's expressed opinion that crusading zeal, es-

pecially on the part of subordinates, to promote social objectives beyond the intent of Congress leads the agencies to see their special task out of proportion and to consider individual rights and constitutional guaranties as negligible.

AMONG restraints called for on certain other tendencies of the administrative agencies, he mentions the delegation of large powers of investigation and decision to subordinates, who are not always of high qualifications. Another which the author believes the citizen must be protected against is organization *esprit de corps* which makes both agency and administrative review meaningless.

Dr. Pound's conclusions, the review states, are that

such processes as we have been developing belong to lands which believe in government by an omincompetent superman with a hierarchy of supermen under him, to whom the life, liberty, and property of the citizen are to be subordinated; who are so all-wise as to know offhand what the public interest demands in each case and need no hearing or evidence or arguments to advise them, but are to adjust all relations and order all conduct by the light of their *ex officio* wisdom in a political organization of society which does not recognize private rights.

We need to be vigilant that while we are combating régimes of this sort, as they have developed in dictatorships and totalitarian governments, we do not allow a régime of autocratic bureaus to become so entrenched at home as to lead us in the same direction.

That there is this trend toward usurpation of the rule of law by Federal administrative agencies is readily recognized by those who come into direct contact with their activities. Dr. Pound's well-considered comments serve to point out the dangers inherent in all this to our future.

FPC Natural Gas Regional Hearings End

IN Charleston, West Virginia, the final regional hearing, in its investigation into natural gas matters—one of several in various sections of the country—was

held by the Federal Power Commission, during the first two weeks in April.

Speaking for West Virginia, Clarence W. Meadows, its governor, said that the

WHAT OTHERS THINK

state considers natural gas "a treasure which she shared freely with her neighboring states." After relating the history of natural gas in West Virginia, and commenting upon the successful developments solely under state administration of state laws, he said:

It has never been seriously considered that the American conception of "dual sovereignty," except in grave national emergencies, contemplates displacement by the Federal government of the powers of the state to regulate the production, transportation, distribution, or sale of commodities produced, distributed, sold, and consumed within the state. To the extent that such displacement may be attempted, whether by law, by regulation, by subtle encroachment, or beguilement, every such attempt will be met by every available, lawful means within the power of the state to employ. . . .

There is, after West Virginia's needs for gas are satisfied, abundance of gas for transshipment across our boundaries. West Virginia cherishes her high privilege of being able to share with the peoples of her sister states the overplus, and, in national emergencies, all, whether or not there be excess, of her rich heritage of natural gas. But, in so doing, she will exercise vigilance lest other authority by regulations treating transportation, distribution, or sale, or by artful fixing of rates, contrive to minimize our own powers over our own resources in our own state. . . .

So far as West Virginia, her people, and her economy are concerned, we refuse to recognize any ideology which, no matter by what means or in what guise it may be presented, is purposed or may tend to involve our natural gas industry in what some people call nationalization, others socialization, of industry. It is denied that there exists any basis of comparison between governmental processes, geography, practices, or philosophy, in short, our way of life, with those of some other peoples who have taken or entered upon that course. If time shall ultimately make advisable adoption of that expediency, that remedy may then be considered; but that time in this nation and in the state is not now, nor is it likely to arrive at any time that vigilance and prudence can foresee. . . . The rights of our own state to administer, under our own laws, within our own state, this great industry in the manner we find best to achieve the greatest benefit for the greatest number of our people, and to exercise such rights in a manner that will encourage continued exploration for this elusive but plentiful resource must remain inviolate.

Vincent P. McDevitt, counsel, Penn-

sylvania Public Utility Commission, who said that he spoke by authorization of the governor of Pennsylvania, asserted:

We feel that this record should contain a specific statement that the commonwealth of Pennsylvania has entirely adequate power and authority to regulate and control all of the various aspects of the gas industry within its borders and that no regulation by the Federal Power Commission or any other Federal agency is necessary to protect the interests of Pennsylvania citizens. . . .

Assumption of jurisdiction by such an authority regulating natural gas matters alone would be uneconomic, since in Pennsylvania not only natural gas but coal and oil are produced in large quantities and such regulation of the end use of any one of these products will disturb the natural balance of the Pennsylvania economy.

Paul E. Weiland, member, Ohio Public Utilities Commission, after giving a history of natural gas in Ohio, and citing the average prices paid by the various classes of customers and the price paid at the wellhead for gas produced in that state, said:

We do not believe there should be any more restrictions on the use of natural gas within the state than of coal or oil and believe that each of them should be left free to compete in the market. . . . We do not believe that the control by any Federal regulatory body over production and end use of the nation's resources of natural gas would be in the best interests of the people of the state of Ohio, nor to the best interests of all the people of these United States. Such extension and enlargement of Federal regulation, with which the nation is at present all too top-heavy, would be another step along the road of a planned economy and away from the time-proved system of free enterprise which has made this, our nation, the greatest and most powerful among the nations of the world.

C. R. WALDEN, member, public service commission of Kentucky, read into the record a statement which had been prepared by Governor Willis of Kentucky, which said:

In order to avoid repetition, I may say that my views are in substantial agreement with the statement made by Governor Kerr of Oklahoma. Fundamentally, the conservation of natural gas, like that of other resources, is a function of the states. The

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Federal government may help in many ways, but the main work should be done by the state agencies. In my judgment, the Federal activities should be restricted to the legitimate regulation of interstate commerce in natural gas, and leave the state absolutely responsible for all other activities in regard to it. The opposition to the original Natural Gas Act was predicated on a very reasonable apprehension that it was but a first step toward federalization of the industry. Subsequent events have not dissipated the apprehension. The trend in that direction should be arrested at once, and the exclusive jurisdiction of the state recognized and respected. . . .

I trust that the hearings will result in a recommendation that the national government be not allowed to interfere in any way with production, use, conservation, or movement of natural gas within the state, and that its activities be restricted to a fair and reasonable regulation of purely interstate transactions.

N. KNOWLES DAVIS, chief engineer, Georgia Public Service Commission, read into the record a statement prepared by that commission in which it was stated that

The position of the state of Georgia with respect to this entire proceeding is that we are completely satisfied with conditions as they now exist. We did not feel at the time of the initiation of the investigation that there was justification or occasion for the proposed inquiry and, after following its progress to date, we are now convinced that the apparent purpose is unsound and that the entire investigation should be abandoned. . . .

A people cannot be governed from the top down except under some form of despotism

or totalitarianism any more than you can stand a pyramid on its point. For the sake of and in protection of our dual system of government, we, therefore, oppose any unwarranted extension of the Federal arm of bureaucracy. The Federal Power Commission has performed a signal service in the accounting field of electric utility regulation but in that field it has forwarned state authority of its desire to preempt and supersede local self-government in the regulation of this industry.

Many witnesses representing industrial users of natural gas appeared at these Charleston hearings. They spoke in the interests of iron and steel, glass, pottery, and other manufacturing concerns, located principally in Pennsylvania, New York state, and Ohio.

The testimony of these industrial witnesses was much of the same pattern, outlining their uses and requirements for natural gas, the need of its availability for certain processes, and the wish to have the opportunity to buy fuels of their own choice without Federal regulations.

The latter being desired because, as contended by J. P. Gill, executive vice president, Vanadium Alloy Steel Co., Latrobe, Pennsylvania, "We think we know best which fuel is suited to any given purpose, better than would any Federal agency."

This natural gas investigation will continue at a further hearing scheduled for June 17th in Washington, D. C.

—R. S. C.

Public Economic Illiteracy—Corporate Management's Problem

IN an address before the meeting of National Petroleum Association, in Cleveland, on April 18th, some pertinent and pungent observations upon the "economic illiteracy" in this country were made by Fred G. Clark, general chairman, American Economic Foundation of New York. His remarks, directed especially at the prevalent misconceptions of business affairs derived from the type of reports customarily issued by corporations, should be of interest to utility ex-

ecutives, as well as to the industrialists to whom he talked.

Commenting that businessmen, when discussing the errors in judgment made by government in relation to business, have a tendency to place the blame upon the bureaucrats in Washington, when, as a matter of fact, businessmen themselves are largely to blame, Mr. Clark said:

The process through which men produce and exchange goods and services is of such

WHAT OTHERS THINK



"YOU AND YOUR DATES! WHY DON'T YOU SHAVE AT HOME?"

simplicity that a schoolboy could readily understand it.

But today the most learned of men outside of business have very little conception of what actually takes place in the economic process, because the simple procedures have been lost in a labyrinth of technical words and phrases that have so many meanings that even the initiated need a special interpreter in order to understand the average corporation report. . . .

If businessmen believed all of the things that their own reports could be made to seem to mean, they too would look on business with deep suspicion; and, until the language of business is changed, government opinion, labor opinion, and public opinion toward business will not change. . . .

Most attacks against business are based on that perfectly dreadful word "profits."

As long as it remains in the business language, business will remain in the dog-house.

THAT thing which businessmen call profit, the speaker averred, is a definite and inescapable cost of doing business—it is the share that must be paid to the people whose savings supply the tools of production. Profit, then, is the cost of using the tools and is present in every society that uses tools. Continuing, he said:

It can be conclusively proved that without profit there could be no tools and that without tools mankind would still be eking out a miserable existence at hard labor.

PUBLIC UTILITIES FORTNIGHTLY

But business has never taken the trouble to prove this....

The simple and proper concept of profit is understandable to all when it is placed in the simple framework of production costs.

I would like to demonstrate this by making a simple dissection of the economic body.

Leaving out for a moment the part played by government, there are only three things involved in our economic life—natural resources, human energy, and tools.

The cost of these three things (with the exception of taxes) constitutes the cost of doing business, but the dozens of technical substitute names by which they are called make the economic body seem discouragingly complicated....

When the American system of private ownership and operation is reduced to these simple cost elements, the picture is overwhelmingly favorable to its continuation.

To illustrate the "workings of American business in terms of social values," Mr. Clark presented this simplified consolidated operating statement of every one of the 477,838 corporations in the United States reporting to the government in 1937—an average "good year":

The tools in use amounted to	\$138,000,000,000
The workers employed numbered 19,144,000	
The amount received from customers was	\$58,542,000,000

THESE RECEIPTS WERE EXPENDED FOR:

Cost of goods and services bought from others	\$14,233,000,000 (25%)
Cost of human energy (wages and salaries)	28,180,000,000 (48%)
Cost of tools wearing out (depreciation)	3,866,000,000 (6.5%)
Cost of payments ordered by government (taxes)	8,392,000,000 (14%)
Cost of using the tools (profit)	3,871,000,000 (6.5%)
Total expended	\$58,542,000,000

He continued:

You will note that the return of \$138,000,000,000 worth of tools owned by 50,000,000 thrifty Americans is less than 3 per cent.

You will also note that payroll was about 8 times as much as the so-called profit.

This statement, of course, does not look exactly like that of an individual corporation because in order to make it up we had

to take out the sums representing goods and services that corporations bought from and sold to each other....

This method of reporting operations is now developing an impressive background.

In May, 1944, 31 steel corporations combined their operating reports into a single statement in this form and presented it before the National War Labor Board to the great benefit of that body's deliberations.

A year and a half later, after VJ-Day, when the steel workers went out on strike, the memory of that report persisted.

It is true that the workers demanded substantial wage increases but at no time was the corporation subject to claims that wages could be increased without increasing the amount collected from the customer.

THAT it is actually the customer who provides employment and the payroll was then pointed out. If that identification is clearly made, by use of the proper language, then clearer understanding will result. Mr. Clark said:

The rank and file of labor—and also labor leaders—are neither stupid nor malicious: They are simply uninformed and the fault is not their own; it is the fault of the businessman who could but has not shown them the truth.

The simplified operating statement in terms of tools and human energy does more than shed light on the division of corporate income.

It also sets the stage for business to demonstrate that it usually isn't management that cracks down on the workers and resists wage increases.

It must be demonstrated to the public at large that the big boss of business—the man who provides the employment and determines the size of the payroll—is the customer.

That is why the simplified operating statement begins with the phrase, "We receive from customers...."

As a matter of fact, there is no discipline equal to that which is exerted by a free customer, and there is no planning as efficient as that which is built around the stern necessity of pleasing the customer....

America has always been under the dictatorship of the customer whose freedom to choose those products and services which gave him the most satisfaction for the least money has kept constant and merciless pressure upon business.

There is no force so immediate and ruthless as the apathy of the dissatisfied customer....

One might ask: What protection has the worker against the demands of the customer?

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The answer is that the worker and the customer are the same person and as a customer he forces himself as a worker to produce efficiently.

In closing, Mr. Clark urged his belief that

the answer to intelligent public and governmental attitude toward business lies in clearing up the atrocious accounting language in which business reports are now made.

People cannot be influenced by facts of which they have no knowledge, and it must be admitted that business has done little to establish the true facts concerning its operation and its problems.

As to these views, addressed to a group of industrial men, and their application to the reports of business-managed utility companies, it is apparent, among the annual reports received in recent weeks, that there is a noticeable trend to present simplified statements of earnings and ex-

penses, which are more readily understandable than the customary accountant's form of presentation. In a number of instances, graphic charts show distribution of dollar income and expense in simple and effective form.

It must be admitted, however, that many utility reports present financial statements in a form which, as referred to by Mr. Clark, is not readily understood by many people. Having in mind the intimate contact of utility companies with so large a portion of our population, by reason of the services rendered, is it not important that the reports of their affairs to security holders and the public be presented in the simplest form possible? Might not such procedure be a practical step toward overcoming the widespread "economic illiteracy" which exists regarding business in general?

—R. S. C.

Nationalization of Banks an Early Phase of State Socialism

UNDER the above title there appears in the spring issue of *The Index*, published by the New York Trust Company, an informative article on this subject. The extracts quoted below suggest the serious threat to free enterprise which lies in this movement.

The subject is thus introduced:

The control of banking, particularly as its functions relate to credit and currencies, the interest rate, inflation, and deflation, has always been an objective of the socialistic program....

In the latest assault on the free enterprise system, even the Bank of England, in private hands since 1694, the Bank of France, established in 1800, and other central banking systems have been forced to capitulate. The drive for government ownership of banks is usually directed in its early stages at the central banks, which have the power to issue currency and to control the credit policy of a nation, although they sometimes also carry on general banking business. However, the movement is extending to commercial banks, and in more and more countries some or all of the commercial banks are now government owned.

The next few years will test the forms of economy and their banking systems of which three countries are exponents: free enterprise in the United States, Socialism in Great Britain, and Communism in Russia.

THE writer then describes, in considerable detail, the various principal state systems which, he notes, differ widely. The steps are outlined by which this nationalization of banks was accomplished in Russia, England, France, Czechoslovakia, and several other countries. In summing up the situation, this concise statement is made:

Throughout the world, banks are being nationalized. In England, Russia, France, Canada, Australia, and many other countries, the governments have acquired the central banking systems. In Russia and Czechoslovakia, all banks have been nationalized, while in France and New Zealand some of the large commercial banks, as well as the central banks, are being brought under government ownership and operation.

That bank nationalization is only the

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initial step toward the taking over of other controls is pointed out by this writer. He states:

... The first of these controls sought is that of the instruments of production, the control of the inherent collateral industries. For instance, in England, transportation, power, mining, and other basic industries and services are to be socialized. In Russia, of course, not only the basic industries but even the agricultural production facilities were confiscated by the government.

The ultimate objective of nationalization is declared to be "political control. Thus, the nationalization of banks is a serious threat to free men and free institutions." It would follow that

Nationalization of commercial banks would remove the element of competition which is of distinct advantage to the public since the banks are now competing keenly for deposits and loans. Moreover, it would tend to put the borrower completely in the hands of financial bureaucrats and would transform the banking system into a gigantic

government monopoly open to manipulation for political expediency and subject to political control. Under such arrangement, it would be possible for the government to siphon off the resources of some areas for the benefit of others.

ATTENTION is called to the production record of the United States under free enterprise, as follows:

It is worth remembering that in the conflict just ended, when production became a matter of national life and death, our free enterprise system not only produced enough to fill its own needs but to supply a part of the needs of the countries that are now exponents of Communism and state Socialism—needs they could not fill themselves.

The informed statements in this article on bank nationalization suggest the importance of a clearer understanding by the American people of the far-reaching and serious extent to which such moves lead.

—R. S. C.

Which Will Prevail—Communism or Democracy?

IN the New England Letter of April 30th, issued by the First National Bank of Boston, under the heading "The Battle of Ideals," are some thoughtful observations touching both history and the future outlook.

The writer introduces his article in these words:

The future course of civilization may be determined by whether the ideals of Communism or democracy prevail. While military operations of World War II have ended, the warfare of ideals continues incessantly and is shaping the pattern of the future. It is a crucial struggle in which the American way of life and world peace hang in the balance.

Our forefathers came here to escape the regimentations and tyrannies of Europe and established the "new order of the ages" by founding the first system in the world for the preservation of individual freedom. All other governments prior to that time were founded for the glory and the power of the state.

Not only a democratic form of government was provided, but also economic

freedom, with equal opportunity for all.

DESPITE its outstanding accomplishments, it is pointed out, the American system has been subjected to insidious and violent attacks from within this country and from abroad. The writer states:

... The record of great economic and social performance is ignored, the Constitution is ridiculed as belonging to the horse and buggy days, many of our public school textbooks pay only scant attention to our history but instead place emphasis upon social studies tinged with Communism. Hard work and thrift, self-reliance and personal responsibility—the pillars upon which our system was built—are scorned, and for the past decade and a half the people have been encouraged to look to Washington for their economic and social salvation.

The net effect of the destructive policies pursued in recent years was to weaken our system and pave the way for collectivism. "And what," asks the author, "has collectivism to offer?"

The March of Events



Krug Favors Decentralization

SUPPORT for the general plan to decentralize many of the affairs of the Federal government by setting up regional "capitals" throughout the country, including one in Denver, Colorado, came recently from Secretary of the Interior Krug.

"We have proposed such a decentralization to the Bureau of the Budget for the Interior Department," the Secretary said. "Under our plan we would not necessarily have an Assistant Secretary of the Interior in each of the regional headquarters. To do that it would be necessary to get authority from Congress.

"However, the plan would provide for the location in each of the regions of a man who would have authority to pass on all matters at the level of the Secretary's office.

"Such a man would be a regional director of all Interior Department affairs and his job would be to coordinate all activities of the department, including those of the Bureau of Mines, the Geological Survey, the Bureau of Indian Affairs, the Bureau of Reclamation, etc."

The plan, Krug believes, "should result in a substantial improvement in the administration of affairs in this department."

Seeks Construction Authorization

THE Mississippi River Fuel Corporation, St. Louis, Missouri, recently filed an application with the Federal Power Commission requesting authority to construct a number of additions to its natural gas transmission system which begins at Perryville, Louisiana, and continues through Arkansas and Missouri into Illinois. The new facilities would increase the natural gas sales capacity of the system by approximately 50,000 mcf per day to a total of about 183,000 mcf per day. The estimated cost of the proposed project is \$11,574,000. The company desires to begin construction by September and expects to complete the project by the first of the year in time to meet peak requirements in January and February, 1947.

The facilities would consist largely of loop lines and the addition of 10,200 horsepower to existing compressor stations. According to the application, the facilities are required to meet increasing demands of both utility and industrial customers. The company stated that demands of its utility customers have been un-

precedented for several years and that during the last winter it was necessary to curtail industrial sales to protect domestic customers.

FPC Authorizes Merger

THE Federal Power Commission has authorized Northern Virginia Power Company, Winchester, Virginia, to acquire and merge with its own facilities the "Page Group Electric Companies" which include Page Power Company, Madison Power Company, and Massanutten Power Corporation. All of the companies involved are subsidiaries of the Potomac Edison Company, Frederick, Maryland.

To effect the merger, Northern Virginia will increase its outstanding common capital stock by the amount of \$2,637,000 par value, which amount will be represented by 26,370 shares of a par value of \$100 each. Northern Virginia will then deliver to Potomac Edison, in exchange for its holdings of capital stocks of the Page Group Electric Companies, new common stock of Northern Virginia of a total par value of \$1,956,000, plus a cash payment of \$77.97, total \$1,956,077.97. The consideration is the same amount as paid by Potomac Edison to Republic Service Corporation on August 31, 1945, for the capital stocks of the Page Group Electric Companies.

As a part of the same transaction, Northern Virginia will sell to Potomac Edison the balance of \$681,000 common stock, at par, and will pay to Potomac Edison an amount in cash sufficient to satisfy in full a promissory note and open account indebtedness of \$681,774.

The state corporation commission of Virginia and the public service commission of West Virginia have approved the proposed merger and issuance of stock.

Subsequent to completion of the merger, Northern Virginia is required to file with the Federal Power Commission original cost studies of the electric plant of the Page Group.

OPA Opposes Tube Fare

ATTORNEYS representing the Office of Price Administration appeared at an Interstate Commerce Commission hearing in Washington, D. C., on April 24th to oppose the request of the Hudson & Manhattan Railroad Company for continuance of its present tube fares.

The H&M charges 10 cents a trip, or eleven

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tokens for \$1. The OPA attorneys, after the company proposed that the wartime rate be put on a permanent basis, suggested that the token fare be reduced to either three for 25 cents or four for 35 cents.

Officials of the OPA declared that the company would lose traffic to bus companies and to vehicular tunnels if the present rate structure were maintained.

Urges Use of Substitute Fuels

SOLID Fuels Administrator J. A. Krug recently requested companies manufacturing gas to switch immediately from the use of bituminous coal to substitute fuels.

Pointing out that serious shortages of bituminous coal were resulting from the strike that started April 1st, Mr. Krug, in a letter to Carl Wolf, managing director of the American Gas Association, said that the amount of coal now "available for use in retorts or water gas sets is not sufficient to keep all gas plants in full operation if the suspension of mining continues much longer."

"To help out in this situation, the gas industry should produce the maximum amount of water gas using coke, anthracite coal, and other fuels wherever possible in place of bituminous coal," the letter said.

The AGA advised its members that, in compliance with the administrator's request, gas plants should be operated wherever possible to use the maximum amount of liquid and gaseous fuel and the minimum of solid fuels.

The SFA has authorized shipments of gas-producing coal to manufactured gas producers from emergency stocks accumulated in its freeze order issued just before the strike started, but the supply was said to be dwindling rapidly.

Meanwhile, officials of the Office of War Mobilization and Reconversion, the Civilian Production Administration, and the Solid Fuels Administration met to discuss measures to be invoked in the event of prolongation of the soft coal strike.

Industry, business, and entertainment in about 1,300 Illinois communities, including Chicago and most of the state's other large cities, were under a drastic order on May 2nd immediately to cut use of electric power to safeguard public health and safety during the critical soft coal shortage.

The slash in use of electricity, ordered by the Illinois Commerce Commission as an emergency measure, indicated a brown-out for about two-thirds of the state far more rigorous than the wartime curfew and a virtual shutdown of nearly all night-time public activities.

The order, aimed to conserve rapidly diminishing coal supplies, was issued May 1st and affected nine power companies serving Chicago and northern and central Illinois. The order did not set up an enforcement machinery, but

it empowered the electric companies to withdraw all service from firms or persons who fail to cooperate in the restriction order.

The commission's directive also provided that members and officials of utility companies may order complete withdrawal of electric service to nonessential users unless there is early improvement in the coal supply situation.

Northern Indiana, also on May 2nd, joined Illinois in drastically curtailing the consumption of electric power through brown-outs and other means during the emergency created by the coal shortage.

At Indianapolis the Indiana Public Service Commission authorized the Northern Indiana Public Service Company to appeal to consumers in 22 counties to confine the use of electricity to minimum needs. No penalties for noncompliance were mentioned in the commission's order.

Industries throughout the area were asked to restrict their drain upon the utility company's supplies to one-seventh of the amount of power consumed in April. To attain this goal, commercial users were expected to confine use of current to twenty-four hours from Monday through Friday of each week. Use of electric current by department stores and other similar retailers was permitted from 2 to 6 pm Monday through Saturday. All ornamental lighting and display advertisements were banned during the emergency.

In Ohio the Cleveland Electric Illuminating Company, which serves customers along the Lake Erie shore, and the municipal generating plant in the Ohio metropolis, reported sufficient coal to last sixty days. Observers there termed this a conservative estimate.

The Pennsylvania Public Utility Commission on May 2nd announced it would restrict use of light and power for amusements, including night baseball and other "nonessential" purposes, if the bituminous coal strike made it necessary.

There would be no statewide brown-out, however, John Siggins, Jr., commission chairman, said, but the commission would issue the necessary orders if requested by individual power companies.

Atlanta and Georgia faced little prospect of being forced to curtail consumption of electric power as a result of fuel shortage, William E. Mitchell, president of the Georgia Power Company, announced. Plant Atkinson, near Atlanta, and Plant Arkwright, near Macon, are steam-operated installations, but Atkinson can be operated entirely and Arkwright from two-thirds to three-fourths on natural gas during summer months, it was pointed out. Other Georgia Power Company generating stations are operated by water power.

A spokesman for the Consolidated Edison Company, major utility in New York city, early this month said that, while the company's coal supplies for making electric power, steam, and gas were adequate for from thirty to

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thirty-five days, the company should begin to replenish its piles by May 25th or 26th. A spokesman for the city board of transportation said that its supply was sufficient to last until early June, but that new shipments should start by May 15th.

H. R. Searing, vice president of Consolidated Edison in charge of operations, said the company had been trying to get increased supplies of bunker C, or No. 6, fuel oil, but without success.

"If we could get oil," he said, "we could use it as a replacement for coal at some of our plants."

The Civilian Production Administration on May 8th issued coal conservation orders affecting electricity and gas consumption in the eastern United States, and the Office of Defense Transportation appealed to motor carriers to give preference to essential commodities. CPA ordered electric utilities east of the Mississippi river and in Minnesota, Iowa, and Missouri to make the most effective possible use of noncoal fuels.

Government officials subsequently ordered a withdrawal of the freight embargo at midnight May 12th in view of a 2-week truce in the coal strike.

California

Ask Fare Increases

APLICATIONS for an increase of 15 per cent, in general, in passenger fares on rail and motor coach lines were filed recently by the Pacific Electric Railway Company and Los Angeles Motor Coach Lines with the state railroad commission. Rates would be increased from 1 to 5 cents on various lines, with some exceptions, on one-way, round-trip, and commutation tickets.

"Recent increases in wages granted employees of 16 cents an hour, and which mean an increase of \$3,000,000 a year, made this step necessary in order to derive sufficient revenue to pay operation costs," said O. A. Smith, president.

He said there has been no increase in fares since before the war, although company wages have increased some 50 per cent in the same period.

While an increase in passengers raised revenues, the wage boosts have reached a point where costs no longer can be absorbed in this manner, Smith said.

In the downtown metropolitan and Hollywood areas, fares would be increased from 5 to 6 cents, under the company's petition. The

10-cent rate in the same districts would not be changed.

Urges Publicly Owned Power

STATE Attorney General Kenny, candidate against Governor Warren, declared in a radio broadcast recently that he would fight "as a partisan for the early development of public power in this state to fulfill the promise of the Central Valley project."

Kenny urged election of the CIO-PAC-Democratic slate of candidates at the coming election and promised this slate would have representatives in Washington "urging the people's side of the utility battle."

Kenny attacked the Pacific Gas and Electric Company "as an example of monopoly aims in California." He contended Governor Warren had never requested Federal funds be voted by Congress for government transmission lines.

The candidate said cheap power must be provided for the people. He said California "could become the poorhouse of America" unless proper planning for the future is done.

Kenny said the Central Valley project so far "has been developed by the Reclamation Bureau, under reclamation law."

Colorado

Utility Cuts Rates

AREDUCTION in electric rates has been made at Boulder by the Public Service Company of Colorado, it was announced last month.

Bills of the average domestic user will be reduced more than 13 per cent and the total saving to all consumers of light and power is estimated at \$34,775 a year. The monthly bills of a residential customer using an average of 81 kilowatt hours a month will be cut from \$3.69 to \$3.20, making an annual saving of \$5.88.

Rates on business lighting, power, school,

and municipal lighting and street lighting also were reduced.

Under the new rate reduction, which the city council unanimously accepted, City Manager McClintock said the charge for the average residential use of 81 kilowatt hours in Boulder is lower than that of eight other comparable Colorado cities.

Under the new rate reduction, the schedule of rates for domestic users is: First 16 kilowatt hours or less per month, \$1; next 30 kilowatt hours, per kilowatt hour, 4 cents; next 30 kilowatt hours, per kilowatt hour, 3 cents; all additional kilowatt hours, 2 cents.

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District of Columbia

Sign Truce Agreement

WASHINGTON GAS LIGHT COMPANY and AFL union officials on May 4th signed a truce agreement, providing for the arbitration of their dispute and ending all fears that the District's gas supply would be cut off by a strike of gas workers.

The agreement, announced by U. S. Conciliator Lucien F. Rye, established a 5-man arbitration panel to hear and decide the issues in the dispute. The panel was scheduled to meet not later than May 20th. No time limit was set for arbitration hearings.

Uninterrupted gas service for 260,000 Wash-

ington and near-by Maryland and Virginia consumers was guaranteed by a clause in the agreement, which said in part:

"During arbitration there shall be no lock-outs, no strikes of any kind, including sit-downs, sit-ins, walkouts, or continued meetings."

The union agreed to withdraw its strike notice, which would have been effective on May 6th.

The arbitration panel will consist of two members each from the company and union. The fifth member, who will act as impartial chairman, would be named by Labor Secretary Schwellenbach.

Georgia

Transit Strike Ends

ATLANTA'S 6-day transit strike ended May 6th when more than 500 streetcars and electric and motorbuses returned to the streets. Georgia Power Company officials reported that by 5 P.M. — the rush hour — operations were "100 per cent normal."

Service was resumed less than two hours after the 1,400 American Federation of Labor employees of the transportation system had

voted overwhelmingly to accept terms of an agreement reached May 5th by the union's executive committee and company representatives.

The agreement included a 19 per cent wage increase to \$1.07 per hour, and an arrangement whereby the company will make yearly payments to a special pension fund to be set up and administered by the union.

The first company payment to the pension fund will be \$45,000.

Kansas

Consumers Get Gas Refund

PROBABLY \$8,000,000 in refunds will go to Kansas natural gas consumers, according to estimates by the state corporation commission following a recent decision by the United States Circuit Court of Appeals upholding initial findings of the Federal Power Commission in a controversy involving rates of the Gas Service Company and the Wyandotte County Gas Company.

No breakdown as to probable individual refund average was possible for Kansas, accord-

ing to DeWitt Stiles of the state commission.

President Adams of the Kansas City Gas Company, with which the Gas Service Company is affiliated, told reporters the practical method of figuring refunds was on a percentage, rather than a cash, basis. That goes for all domestic users. He estimated that the refund for the period of impounded collections would average probably 25 per cent for all domestic consumers.

Probably nine to twelve months under normal conditions would be required to make refunds.

Kentucky

Ordered to Reveal Rate Records

THE state public service commission recently directed Kentucky Utilities Company to produce certain of its records in order to determine if the city of Frankfort is justified in its claim KU is charging it \$30,000 a

year more for its energy than it charges similar customers.

The utility was given until May 1st to produce the records and answer all except four of the interrogatories filed by Marion Rider, attorney for the Frankfort Electric & Water Plant Board. Rider, a commission spokesman

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said, had withdrawn the four questions after the information he sought was found to be in the commission's files.

The city-owned utility protested it was forced to pay higher rates for electricity than similar consumers under a rate schedule known as Wholesale Power Rate No. 1, and that KU had refused to negotiate a contract on terms or rates other than those included in WPR 1, which he termed "unjustly and unreasonably discriminatory against the city and the plant board."

The records Rider demanded KU to produce so the city could establish its case included names of all customers buying energy for resale, copies of their contracts, rate schedules, and monthly bills.

He also asked the date the transmission line connecting KU's system with that of Louisville Gas & Electric Company at the Shelby-Jefferson line was energized and completed, the original cost of the line, and contracts KU has with Louisville Gas & Electric for power purposes.

Louisiana

Gas Tax Opposed

GAS and other industries and interests on May 1st continued a parade of opposing witnesses at a state revenue code commission hearing on a proposal to increase the state gathering tax on natural gas, with most testimony being to the effect that the increase would hamper the state's industrial growth.

Witnesses included representatives of gas distributors, such as H. C. Leonard, vice president of Gulf States Utilities Company, who said the resulting increase would be "staggering," would, for instance, result in a \$75,000 a year fuel cost increase at its planned generating plant at Lake Charles.

Questioned by Public Service Commissioner Wade O. Martin, and others, Leonard said that Gulf States pays Interstate Natural Gas Company around 11 cents per thousand feet for gas it sells in Baton Rouge to domestic consumers for more than 50 cents, and pays 10 cents for gas it sells for industrial use.

Possibility that the entire question might become moot as the result of atomic energy developments was raised again by Pat Marr, independent oil and gas operator, who said gas may be displaced as a fuel. Commission Chairman H. Alva Brumfield had already held, however, that such a possibility could be considered only as an additional incentive for the state to seek to get gas taxes "now."

Michigan

Halt on Gas Heat Upheld

THE Michigan Consolidated Gas Company decision to refuse house-heating services to new customers was sanctioned last month by members of the state public service commission.

Approval of the company's decision came after James H. Lee, assistant corporation counsel, announced that he would ask the Detroit city council's approval of a petition to the state commission requiring the company to show cause for its action.

Commission Chairman William J. McBrearty said "the company conformed to Federal orders during the war and refused to add new

space-heating customers but voluntarily lifted this ban last year. The lifting of the ban increased the company's space-heating customers from 53,000 last October to 82,000 now."

McBrearty said the increase in customers exhausted the company's available supply of gas and it therefore refused to accept more new customers.

"We agree that this must be the situation until Michigan gets more gas," he said.

Lee said the gas company's action would work considerable hardship on persons planning to build new homes and on suppliers of such equipment.

"It shall not go unchallenged," he declared.

Minnesota

Old Gas Ordinance Dead

ASSERTING he was anxious to "scotch the A lies" about St. Paul's present natural gas ordinance, William A. Parranto, public utilities commissioner, last month presented to the

city council an opinion by Bruce J. Broady, city attorney, that the measure is now in effect.

Opponents of the proposed natural gas ordinance, which provides for city-wide distribution of 1,000-BTU gas and was voted on at the city election April 30th, have maintained

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that the city already has an ordinance under which 800-bru mixed gas could be distributed.

In reply to a query by Paranto, Broady wrote this opinion:

"You have asked whether in my opinion the city council could secure the use of 800-bru gas in St. Paul under the ordinance now in effect. The answer is no."

Broady then pointed out that before mixed gas could be distributed under the present measure, an ordinance would have to be passed, ordering the Northern States Power Company to supply 800-bru gas and fixing the rates to be charged.

St. Paul citizens voted 8 to 1 in favor of natural gas at the April 30th election.

New Jersey

Weights Rate Cut

A SAVING of \$453,000 would be effected for 60,000 customers of the New Jersey Power & Light Company under a rate revision plan submitted to the state public utility commission late last month. The company serves Warren, Essex, Hunterdon, and parts of Morris, Somerset, and Union counties.

The plan was submitted in accordance with a rate adjustment schedule approved by the commission March 22, 1944. Under the plan filed recently \$166,000 would be applied to rate reduction during 1946 and 287,000 would be returned to consumers in billing credits.

The application was taken under advisement by the commission, with early approval expected.

New York

Commission Submits Report

PUBLIC utility rates in New York state were cut by \$13,480,000 last year, Milo R. Maltbie, chairman of the state public service commission, disclosed on May 5th.

The commission's annual report, submitted on that date to Governor Thomas E. Dewey and the state legislature, added that electric rate cuts accounted for \$11,000,000 of the reduction, while bus fares went down by \$1,875,000.

In addition, the report continued, reductions totaling about \$2,300,000 in electric, telephone, and bus rates were negotiated last year to take effect January 1, 1946, or shortly thereafter. The record for utility rate cuts is \$14,460,000 in 1945.

Largest decreases last year resulted from mergers and consolidations of two big utility groups, the commission said.

The Consolidated Edison system, New York city, slashed electric rates by about \$6,300,000 annually in connection with the commission's approval of the merger of Brooklyn Edison Company and New York & Queens Electric Light & Power Company.

Consolidation of three operating units of the Niagara Hudson Power system into a single firm, the Buffalo Niagara Electric Corporation, brought about a rate reduction of \$1,500,000.

Rates Called Excessive

A COMPLAINT seeking reduction of Consolidated Edison rates for electricity, and asking that the state public service commission undertake a broad investigation to determine fair rates and fair rate base was filed on May

2nd with the commission on behalf of thirty-one consumers of current. Among those joining in the complaint were domestic consumers, manufacturing and commercial corporations, and owners of office and loft buildings. A majority of the complainants buy current under service classifications 9 and 10, which apply to large users, including submeters.

The complaint charged, moreover, that the rates are not related, as required by law, to the fair value or proper rate base, and that no accurate determination has been made as to the rate of return to be applied to the company's assets or as to the company's operating expenses.

Attached to the complaint was an affidavit by Dr. John Bauer, economist and rate specialist, which said that a recent study made by the Federal Power Commission showed the rate for domestic use in New York city exceeded rates charged in Chicago, Philadelphia, Detroit, and Los Angeles for the same amount of current.

Bills on Grade Crossings Vetted

GOVERNOR Dewey vetoed without comment last month the Stephens bill which would have stripped the state public service commission of most of its present control over grade-crossing eliminations and vested them in the state superintendent of public works. The change had been urged by Park Commissioner Robert Moses of New York city.

Another bill intended to expedite crossing removals and to cut their costs was approved by the governor. It empowers the commission to order a relocation of a railroad when it appears to its satisfaction that such a course

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would serve the public interest and would reduce the number of eliminations required.

On recommendation of the superintendent of public works, Mr. Dewey vetoed a bill that would have increased the maximum width of busses from 96 to 102 inches.

Another bill that would have had the effect of suspending license requirements for operators of trackless trolleys, although that apparently was not the intent of its sponsors, was

vetoed by Governor Dewey, it was reported.

The governor signed a bill introduced by Assemblyman Harry Reoux authorizing corporations affected by the Federal Public Utility Holding Company Act to make any changes in their corporate structure required by decrees of the Federal courts, except that no such decrees affecting companies under regulation by the state public service commission shall have effect until approved by the commission.

Ohio

Court to Rule on Utility Tax

THE Ohio Supreme Court on May 2nd accepted for review a suit attacking the validity of a 2½ per cent tax imposed by Youngstown on the service of gas, electric, telephone, and water utilities.

Mahoning County Common Pleas and Appellate courts held the tax valid but ordered the money collected impounded until the supreme court rendered its decision.

The Youngstown tax was enacted as an emergency and became effective February 19, 1945. It was terminated by its own limitation December 31, 1945.

The Ohio Department of Taxation has been advised the only other municipality now collecting such a tax is Columbus, where a rate of 5 per cent is imposed upon gas, electric, and telephone service. The tax is collected by utilities through regular monthly bills to consumers, as Youngstown's.

The utilities pay the tax to the city treasurer.

Briefs filed with the state supreme court in the Youngstown Case asserted that the question of validity of such a tax is of great public interest because many other municipalities are considering such a tax to help solve financial problems. The Youngstown and Columbus taxes are collected for the cities' general funds and may be used to pay general operating costs.

Validity of the utilities tax was attacked in the Youngstown Case on grounds that the state had preempted the field of such taxation through imposition of a general retail sales tax and a 3 per cent utilities gross receipts tax. Utilities are exempted from the sales tax because they pay the gross receipts tax.

The city contended and the Mahoning County courts upheld the view that the utilities which are exempted from the general sales tax are subject to taxation by municipalities and that the municipal tax does not add an additional tax to the gross receipts tax.

Oklahoma

Dam's Return Step Nearer

U. S. SENATOR Elmer Thomas of Oklahoma and Governor Kerr on May 1st won Budget Bureau approval for the return of the Grand River Dam Authority to the state of Oklahoma, thus clearing the last major hurdle in the deal.

The information came from Senator Thomas, who said that the bureau's director, Harold D. Smith, had promised a favorable report on the plan already worked out, within a short time, after a meeting.

Favorable reports had been received from all other interested government agencies, with exception of the Budget Bureau.

Oregon

Portland Sale Wins Approval

THE \$7,900,000 sale of the capital stock of the Portland Traction Company and the assets of the interurban railway line to the Portland Transit Company was approved recently by Federal Judge James Alger Fee.

Final signing of the contract by the independent trustees of the Portland Electric Power Company with representatives of the transit

company was to follow within a few days, according to Lamar Toose, attorney representing the company.

Three hundred thousand dollars cash, in addition to the \$200,000 good faith money already on deposit with them, would be turned over to the independent trustees. Final transfer of all stock and all financial arrangements would be completed by about the middle of June, Toose said.

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Pennsylvania

Fare Hearing Set

FIRST hearings on proposed higher transit fares in Philadelphia will be held by the state public utility commission on June 25th, 26th, and 27th. The dates were announced at Harrisburg recently by Commission Chairman John Siggins, Jr., after a PUC executive session.

No decision is expected from the commission until after November 5th. In the interval, a commission order is keeping fares at present rates.

The Philadelphia Transportation Company asked the commission on April 3rd to permit fare increases, effective May 5th, on all trolley and subway-elevated lines, trackless trolleys, and five bus routes.

Principal features of the request were a 10-cent straight cash fare, instead of the present 8-cent straight fare, and four tokens for 35 cents, instead of two for 15 cents. Transfer privileges, however, were to be extended to cut the cost of some present combination rides.

On April 9th the commission suspended the proposed increases for six months from May 5th, pending an investigation by the commission and public hearings at which the city and other possible opponents would have an opportunity to fight the increase.

First to appear in the June hearing, at which a member of the 5-man commission will be asked to preside, will be PTC itself.

"The company has the burden of justifying higher fares, and thus has the right to present its case first," Siggins explained.

Tennessee

Transit Tie-up Avoided

A STRIKE of 700 Memphis streetcar and bus operators was called off on May 1st when union wage demands were met by the Memphis Street Railway Company.

Vernon Watts, secretary of the operators' union, said concessions were made by both sides. Under the new contract, he said hourly wages of the operators were hiked from 87 cents to \$1.05, and the mechanics were raised to \$1.13 an hour.

Washington

Original Cost Determination Announced

THE Federal Power Commission recently announced its determination of the actual legitimate original cost of the completed portions of the Skagit river hydroelectric project of the city of Seattle. Out of a total of \$20,129,833 claimed, the commission determined \$19,302,726 as the actual legitimate original cost of the completed portions of the project and disallowed \$827,107.

The portions of the licensed project which have been completed include Diablo dam and generating station, transmission lines and communication system from Diablo dam to Seattle, and the first step of Ross dam, named for the late J. D. Ross who pioneered the entire development for the city.

Following the city's filing of its initial claimed cost statements, members of the commission's staff inspected the project property, examined and audited the city's accounts and records, and questioned certain items of the claims. These included insurance, equipment, and interest on accumulated costs during a construction shutdown period of some two years and eight months during the depression

of the early 1930's, and a credit for the estimated value of stored water in Diablo reservoir.

A conference on the questioned items was held in Seattle in August, 1945, between members of the commission's staff and representatives of the city. Representatives of the state auditor of Washington attended this conference at the invitation of the commission. As a result of the conference, understandings were reached whereby the city filed revised claimed cost statements reducing the totals claimed for the completed portions of the project to \$19,302,726 and eliminating a net amount of \$827,107. The reductions applied only to Diablo dam and generating station and the transmission and communication system, there being no exceptions to the costs claimed for the first step of Ross dam.

The commission's order directed the licensee, in so far as it has not already done so, to adjust its project plant accounts by disposing of the net reduction of \$827,107 by charging \$112,298 to Account 250, Reserve for Depreciation of Electric Plant, to clear that account of the accrued depreciation applicable to the total net reduction, and by charging the remainder of \$714,809 to Account 271, Earned Surplus.

The Latest Utility Rulings

Federal Control of Power Project Not To Be Fettered by State Laws



THE Supreme Court has reversed the judgment of the United States Court of Appeals for the District of Columbia which sustained the opinion of the Federal Power Commission that a license for a power project cannot be granted until the applicant submits evidence of compliance with state law. A dual final authority with a duplicate system of state permits and Federal licenses required for each project, said the court, would be unworkable.

The commission, in (1944) 52 PUR (NS) 82, had dismissed an application for a license to construct a power project on Cedar river in Iowa for the reason that the applicant had not presented satisfactory evidence, pursuant to § 9(b) of the Federal Power Act, of compliance with the requirements of applicable laws of the state of Iowa. The lower court upheld this ruling in (1945) 60 PUR (NS) 353, holding that the Federal Power Act contemplates a dual system of control and the exercise of appropriate powers by both governments.

An Iowa statute was alleged to require the issuance of a permit by the executive council of the state. The Supreme Court said that to require the applicant to secure such a permit would vest in the state authorities a veto power over the Federal project. Such a veto power easily could destroy the effectiveness of the Federal act. It would subordinate to the control of the state the comprehensive planning which the act provides shall depend upon the judgment of the Federal Power Commission or other representatives of the Federal government.

A feature of the project commending it to the Federal Power Commission was its diversion of substantially all of the waters of the Cedar river near Moscow

to the Mississippi river near Muscatine. A provision of the state law seemed to prohibit diversion as proposed. The court said:

Compliance with state requirements that are in conflict with Federal requirements may well block the Federal license. For example, compliance with the state requirement, discussed above, that the water of the Cedar river all be returned to it at the nearest practicable place would reduce the project to the small one which is classified by the Federal Power Commission as "neither desirable nor adequate." Similarly, compliance with the engineering requirements of the state executive council, if additional to or different from the Federal requirements, may well result in duplications of expenditures that would handicap the financial success of the project. Compliance with requirements for a permit that is not to be issued is a procedure so futile that it cannot be imputed to Congress in the absence of an express provision for it.

To the extent that the Federal Power Act separates those subjects which remain under the jurisdiction of the states from those delegated to the United States, the act establishes a dual system of control, but this consists merely of the division of the common enterprise between two cooperating agencies of the government, each with final authority in its own jurisdiction. The duality does not require two agencies to share in the final decision of the same issue, said the court.

The act, the court continued, leaves to the states their traditional jurisdiction subject to the admittedly superior right of the Federal government to regulate interstate and foreign commerce, administer the public lands and reservations of the United States, and in certain cases exercise authority under the treaties of the United States. These sources of constitutional authority are all applied in the Federal Power Act to the development of

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navigable waters. Local authorities still have jurisdiction over such questions as the sufficiency of legal title to riparian rights or as to the validity of local fran-

chises, if any, relating to proposed intrastate public utility service. *First Iowa Hydro-Electric Coöperative v. Federal Power Commission* (No. 603).



Wholesale Gas Rate Applicable to Industrial Village Service

A NEW rate schedule filed by the Atlanta Gas Light Company to be applicable to gas used in villages owned or provided by industrial plants in connection with their operation, where all such gas service was provided through a single meter installation, was disapproved by the Georgia commission. The schedule was designed to make the rate comparable to the company's residential rate.

The company based its arguments on two points: (1) the fact that an actual out-of-pocket loss was sustained on all gas sold for use in industrial village houses, and (2) that discrimination should be prevented by establishing substantially the same rate as is applied to retail domestic consumers of the utility. The commission said there was good reason to provide a rate which would not

cause a loss on this class of business, but the question of discrimination was somewhat remote, inasmuch as the rate did not apply to ultimate consumers and resale to ultimate consumers was prohibited. The sale of gas through a single meter installation for distribution to ultimate consumers was termed a wholesale transaction which should command a rate lower than the established rate for retail service, especially since none of the facilities beyond the individual meter installation were owned or maintained by the gas company.

A wholesale rate of 50 cents per thousand was prescribed upon a showing that the company paid 30 cents per thousand for gas purchased. *Edgar Brothers Co. v. Atlanta Gas Light Co.* (File No. 19367-1, Docket No. 7857-A).



Action Deferred on Bond Proposal Pending More Complete Plans

THE New York commission deferred final action on a petition of the Rochester Telephone Corporation for authority to issue, and sell without competitive bidding, \$6,238,000 first mortgage bonds at 2½ per cent to refund outstanding 2½ per cent bonds and 3½ bonds. The company has outstanding a \$1,200,000 unsecured 2 per cent demand note and a \$1,600,000 unsecured 4 per cent demand note. It is planning to change over to dial operation.

The proposal before the commission, it was said, dealt with only one of the financial problems before the company. Commissioner Burritt, speaking for the commission, said:

In view of these facts and particularly the excessive interest being paid on one of the

demand notes and the demand for future funds, a piecemeal consideration of the financial program of the company seems inadvisable and, before action is taken on the company's proposal, the commission should have before it a plan dealing with at least provision for refunding the demand notes and know what is contemplated as to future funds.

It is quite possible that with the low interest rates now prevailing, provision should be made for refunding one or both of the demand notes and possibly for expenditures on new equipment in and as a part of the issue to refund its first mortgage bonds.

There is also the question of whether the refunding issue should not be sold through competitive bidding. In every case coming before the commission since the practice was initiated of selling securities through competitive bidding, the companies have been able to secure money at a lower cost than where private sale was contemplated.

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The company also has outstanding \$2,282,600 in 4½ per cent first preferred cumulative stock, series A. In view of the marked success other companies in this state have recently had in refinancing preferred stock issues at rates about 3½ per cent, it would seem that the company should consider at this time such a refinancing program, although the natural order of issuance of securities would be first, first mortgage bonds and, subsequently, a new issue of preferred stock at a much lower rate than that now being paid.

In a dissenting opinion, Commissioner Eddy pointed out that the refunding pro-

posal would save the company, over the life of the issue, substantially \$1,500,000. Further delay and additional expenses which must be incurred in connection with registration with the Securities and Exchange Commission if competitive bidding were followed would result in additional cost. He said there was no evidence that the bonds could presently be sold at a more favorable price, but that all the evidence was to the effect that this was an advantageous sale. *Re Rochester Telephone Corp. (Case 12193).*



Competitive Bidding Requirements under California Rule

THE California commission, after asserting its jurisdiction to adopt a competitive bidding rule, has ordered that utilities invite, publicly, written sealed bids for the purchase of their securities except in certain cases outlined by the commission. Concerning the extent of the application of the rule, the commission said:

The commission is advised that the Securities and Exchange Commission regards an invitation for bids as a public offering for sale of securities under the Securities Act of 1933, and that such invitation may not be announced until a registration statement has been filed with that commission and by it declared in effect. Because of this situation, we believe that this commission's rule should at the outset not apply to an issue of securities, the total proceeds of which do

not exceed \$1,000,000. Further, the rule should not apply to any security exchanged by the issuing utility with its existing security holders exclusively, where no commission is paid for soliciting such exchange, or to any security offered to existing security holders pursuant to any preemptive right or privilege. Further, it should not apply to any securities issued in exchange for outstanding securities in connection with any bona fide reorganization or financial adjustment pursuant to a decree of a court of competent jurisdiction. Neither should it apply to the conventional conditional sales contracts, if they are payable within five years after date, nor to notes payable in not more than five years after date provided no fee or remuneration is paid for negotiating the loan.

Re Competitive Bidding Rule for Public Utility Securities (Decision No. 38614, Case No. 4761).



Rate Decision Not Controlled by Promises Of Real Estate Developers

STATEMENTS made by sellers of tract lots that flat rate water service instead of measured service would be supplied do not prevent a commission from fixing proper rates. The California commission, in denying a petition to eliminate measured water service, received testimony that the president of the company which had developed a real estate tract, and who was also manager of the water system, had assured buyers of a \$2 monthly flat rate. The commission said:

No sales contracts, deeds, or other written documents submitted contained any provisions for a water supply on a permanent flat rate charge or on any other basis. Petitioners did, however, present copies of advertisements and circulars prepared by Lambert Farms, Inc., relating to the sale of lots on the tract, setting forth, among other things, that water was available at a flat rate of \$2 per month. While alluring and misleading statements may have been made to purchasers and prospective buyers of lots in this tract regarding the water supply and the rate to be charged for water service, such promises and relating transactions are whol-

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ly beyond the jurisdiction and control of this commission. We are, however, directly faced with a practical problem and that is the continuation of water service to the people residing in this subdivision. This can be as-

sured only if the owner of the utility can avoid continued operation at a loss.

Re Meeker (Decision No. 38617, Application No. 22864).

Use of Tax Accruals Ahead of Payments Affects Working Capital Allowance

IN a rate proceeding where the record showed tax accruals ahead of payments were intermingled and used by a utility in part as working cash, the California commission stated it was necessary to take cognizance of such use when making allowance for that portion of the cost of working cash that should be borne by the ratepayer. It also declared that, as a general rule, nonoperating income and expense and amounts recognized as tax deductions, but excluded from operating

expenses in determining rate of return, should not affect the amount of taxes assignable to utility operations. However, there are certain such items which are properly reflected in the computation of income taxes, the largest of which is bond interest.

A rate of return of 6.28 per cent for the company's gas department operations was held to be reasonable. *Re Pacific Gas & Electric Co. (Decision No. 38638, Case No. 4749).*

Meter Acquisition from Submeterers

THE New York commission, after considering proposals of the Consolidated Edison Company concerning the terms upon which it would purchase electric meters from those who decide to discontinue the practice of submetering, directed the company to revise its proposals to meet criticisms made by the commission.

The principal source of criticism of those who opposed the plan was the refusal of the company to continue to purchase direct current meters. They asserted that the company would have an inadequate supply of these meters. The company maintained that it had a sufficient stock and it recognized its obligation of providing an adequate supply of these meters when required.

It was admitted that direct current service was on the wane. The commission said that it would not be justified in requiring the company to purchase direct current meters, even considering the fact that the company was originally responsible for the continuation of direct current service and the introduction and continuation of submetering.

The objectors also asked that the company be required to purchase all the various types of alternating current meters it had been purchasing in the past, even though they might be obsolete. The commission said:

Apparently, the theory of the submeterers is that they may live off the fat of the land in good times but that when the equipment which they must provide and maintain in order to carry on submetering business becomes obsolete or of little or no value and they wish to go out of business, the Edison Company should stand ready to acquire whatever equipment they may wish to turn over.

This theory does not appeal to us. The submeterers are not regulated by the commission. Certain groups have succeeded repeatedly in preventing the enactment of laws placing them under the same kind of regulation applicable to central station companies. Submeterers may install any sort of a meter; there are no inhibitions in any city ordinance or in the statutes which specify what meters may be used and what meters may not be used.

If submeterers were required to meet the standards established by the commission as applicable to central station service, their activities in certain directions would be greatly restricted and improved. There is no reason why the central station company which has been deprived of business through

THE LATEST UTILITY RULINGS

the activities of the submeterers should stand ready to take obsolete equipment off their hands, particularly in view of the fact that through these many years there has been an opportunity of ridding themselves of meters which were becoming obsolete.

The point was stressed that, whatever the company might pay for the meters, entries in the property account should be at original cost.

Consolidated Edison had used straight-line depreciation in determining its prices, and the commission pointed out that in a rate case it should not ignore the straight-line method and revert to "obsolete ideas and practices." A 30-year

meter life was criticized, the commission stating:

The company witness said that he thought it was the life used by the company for Federal tax purposes presumably for determining the amount that should be deducted for accruing depreciation in determining taxable income.

If this is correct, the use of a 30-year life for each and every type is open to criticism, for in this proceeding we are not attempting to determine what is the average life of all meters but the useful life of the survivors which is quite different in a property of considerable age.

Re Consolidated Edison Co. of New York, Inc. (Case 12137).



Commission Reversed on Cancellation of Certificate

AN order of the Pennsylvania commission canceling a bus company's certificate of convenience and necessity was reversed by the superior court of that state because of the insufficient evidence on which its finding of inadequate service was based. Failure to keep to bus schedules on icy hills and using equipment in disrepair because of wartime shortages were not considered substantial evidence on which a conclusive finding of inadequacy of service might be based.

Some effort was made on appeal to show that additional support for the commission ruling existed but was not presented at the hearing and, therefore, was not in the record. To this the court replied that it is imperative to preserve essential rules of evidence by which rights are defended or asserted even though the commission, acting in a quasi judicial capacity, is not bound by the rigid legal rules of evidence. *Re Shenandoah Suburban Bus Lines, Inc. 46 A2d 26.*



Other Important Rulings

A CALIFORNIA court, in considering an appeal from a commission decree of condemnation in favor of a municipal utility district against several private utilities, dismissed a contention that the properties to be condemned were insufficiently described, on the ground that the commission's finding of sufficiency of description set the question at rest and foreclosed reexamination by the court. *Sacramento Municipal Utility Dist. v. Pacific Gas & E. Co. 165 P2d 741.*

The Pennsylvania commission authorized the administratrix of a certificate holder's estate to withdraw an application for authority to transfer the decedent's

certificate pursuant to contract, where it was shown that such withdrawal would not adversely affect public interest, and the injury, if any, to the contractual transferee would result from breach of contract, a matter which could not be relieved by the commission. *Re Alwine (Application Docket No. 62984, Folder 2).*

The California commission dismissed complaints charging undue preference and prejudice in electric zone rates, holding that the mere showing of a difference in such rates does not in itself establish that the difference is an undue or unreasonable one, and that where the record

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fails to show a similarity of basic zone conditions a conclusion that the rates are prejudicial is unwarranted. *Grant-Pacific Rock Co. v. Southern California Edison Co., Ltd.* (Decision No. 38579, Case Nos. 4733, 4734).

The California commission, although stating that it generally does not favor commitments of long duration, approved electric energy contracts between two utilities where the length of such contracts was related directly to basic contracts, they were so drafted as to react to future cost changes, and would contribute to an economical use of capital expenditures. *Re Southern California Edison Co., Ltd. et al* (Decision No. 38628, Application No. 27120).

The California commission ruled that when it is contended that rates should be canceled because they have become "dead," it must be affirmatively shown that they are no longer used and that there is no reasonable expectation of their being needed in the near future. *Re San Francisco Drayage Rates* (Decision No. 38651, Case No. 4084).

The California commission held that increased truck rates were justified upon a showing that operations had been conducted at a loss and that the proposed increase would not produce excessive earnings. *Re Valley Express Co. et al.* (Decision No. 38600, Application No. 25784).

The issuance of preferred stock by a subsidiary of a holding company, to be exchanged for its outstanding preferred stock, was exempted from the competitive bidding requirements of Rule U-50 where the proposed issue had been the subject of informal discussion with the Securities and Exchange Commission's staff and had been approved by the state commission having jurisdiction, prior to the commission's announcement of policy that in future cases preferred stock is-

sues under the Holding Company Act should ordinarily be submitted to competitive bidding. *Re Alabama Power Co.* (File No. 70-1226, Release No. 6472).

Where a telephone company had contracted for conversion of its system from magneto switchboard to common battery service and was planning to change from grounded lines to metallic lines, the Illinois commission authorized increased rates, to be effective coincident with the cut-over to common battery service without further notice, since the company would not be advised of the cut-over long enough in advance to enable it to file proposed rates on 30-day notice. *Re Tampico Farmers Mutual Telephone Co.* (33336).

The Securities and Exchange Commission denied effectiveness to a declaration of a holding company regarding the proposed sale of utility assets to a non-affiliated subsidiary of a holding company where it did not appear that competitive conditions were maintained. A possible purchaser, according to the commission, had been led to believe that a deal had been closed and, therefore, it did not submit a higher bid than an amount earlier suggested. *Re Interstate Power Co. et al.* (File Nos. 70-1164, 70-1170, Release No. 6516).

The Pennsylvania commission held that a water utility's intention to discontinue utility operations because of a sharp decrease in revenue did not constitute a valid excuse for failure to maintain adequate water service. *Getter v. Lechaweki Springs Water Co.* (Complaint Docket No. 14093).

The Wisconsin commission denied a telephone utility's application for authority to increase rates, after finding that its present 6 per cent return on a net book value rate base was reasonable. *Re Morley Teleph. Co.* (2-U-2117).

NOTE.—The cases above referred to, where decided by courts or regulatory commissions, will be published in full or abstracted in *Public Utilities Reports*.

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Public Utilities Reports

COMPRISING THE DECISIONS, ORDERS, AND
RECOMMENDATIONS OF COURTS AND COMMISSIONS



VOLUME 63 PUR(NS)

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These reports are published in five bound volumes annually, with an Annual Digest. The volumes are \$7.50 each; the Annual Digest \$6.00.

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PUBLIC UTILITIES REPORTS

SECURITIES AND EXCHANGE COMMISSION

Re New England Power Association et al.

File Nos. 54-92, 59-14, 54-19

Release No. 6470

March 14, 1946

APPPLICATION under § 11(e) of Holding Company Act for approval of proposed holding company simplification plan to effectuate compliance with § 11(b) of the act; approval granted.

Corporations, § 22 — Reorganization — Holding company simplification — Necessity of plan.

1. A plan filed under § 11(e) of the Holding Company Act, 15 USCA § 79k(e), is necessary to effectuate the provisions of § 11(b) of the act where it will result in a single holding company in place of the existing holding companies and will thus effectuate compliance with the great grandfather provision of the act, where the plan will simplify the corporate structure by eliminating eighteen different security issues and substituting therefor only two classes of securities, thus resulting in the improvement of the present overcapitalized structure by the reduction of senior securities of the holding company and its subholding companies held by the public, where it more equitably distributes voting power among the security holders of the holding company system, and where it will enable the electric properties in the system to be retained under a common ownership and afford additional economies in the operation of such properties as a single interconnected and coordinated system by the elimination of the existing subholding companies, p. 14.

Corporations, § 22 — Reorganization — Holding company simplification plan — Stock allocation.

2. The proposed exchange of stock for presently outstanding shares of a

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holding company and its subholding companies held by the public, to effectuate simplification of a holding company system, must be tested to determine whether each class of securities of the holding company system is to receive its equitable equivalent under the plan, p. 17.

Corporations, § 22 — Reorganization — Exchange of securities — Equitable equivalent.

3. In determining the equitable equivalent of securities being surrendered in exchange for new securities pursuant to a holding company simplification plan, consideration must be given to the entire set of rights and limitations of the securities in the business context of the issuer, apart from the impact of § 11 of the Holding Company Act, 15 USCA § 79k, p. 17.

Revenues, § 2 — Estimates for the future — Holding company simplification — Stock allocation.

4. In considering past earnings as a guide to reasonably foreseeable earnings applicable to a holding company system, a 7-year average, which excludes hurricane and war years, is more significant than a 10-year average, including the hurricane and war years, for the purpose of allocating stock pursuant to a holding company simplification plan, p. 19.

Corporations, § 22 — Reorganization — Holding company simplification plan — Fairness of stock allocation.

5. Stock allocations provided in a holding company's simplification plan, which partly compensate certain of the claims of preferred shareholders in cash, are not unfair merely because such treatment may have different tax effects upon different groups of security holders, p. 27.

Corporations, § 22 — Reorganization — Holding company simplification plan — Fairness to security holders.

6. So long as full compensatory treatment is given to a class of security holders, such class may not complain that it is being satisfied partly in cash and partly in securities while other security holders are receiving only securities, or different amounts of cash and securities, under a holding company simplification plan, p. 27.

Corporations, § 22 — Reorganization — Allocation of common stock — Contract factor.

7. A plan filed to comply with the requirements of § 11 of the Holding Company Act, 15 USCA § 79k, which is found to be necessary to accomplish such purposes and to accord to security holders the equitable equivalent of their rights is not objectionable solely because the plan cuts across the contract rights of the security holders affected, p. 31.

Corporations, § 22 — Reorganization — Holding company simplification plan — Fairness of stock allocation.

8. Stock allocations pursuant to a holding company simplification plan are fair and equitable to the security holders affected, where the plan will increase consolidated net income of the holding company system, where the new stock to be issued in lieu of existing stock, although showing lower earnings, will be of substantial better quality, and where all the public owners of preferred shares in the holding company system will receive an increase in the net return, p. 41.

Corporations, § 22 — Reorganization — Holding company simplification plan — Fairness of plan.

9. A plan filed by a holding company and its subsidiary holding companies

RE NEW ENGLAND POWER ASSOCIATION

under § 11(e) of the Holding Company Act, 15 USCA § 79k(e), providing that all the public utility operating companies now in the system will be direct subsidiaries of a single holding company which will have a capital structure of only debt securities and common stock outstanding in lieu of eighteen classes of holding company securities now outstanding, providing for the assumption of the funded debt of the present holding company and a replacement thereof by a new issue of debt securities, and for the distribution of cash and new common stock in exchange for the outstanding preferred and common stock of the existing holding companies was deemed fair and equitable, where the respective holders of each class of securities of the holding company would receive the equitable equivalent of their existing rights, p. 56.

APPEARANCES: Ropes, Gray, Best, Coolidge & Rugg, by John R. Quarles, Boston, Mass., Ely, Bradford, Thompson, & Brown, by Joseph B. Ely, Boston, Mass., Frederick J. Dunn and Leeds A. Wheeler, Boston, Mass., for New England Power Association, Massachusetts Power and Light Associates, North Boston Lighting Properties, The Rhode Island Public Service Company, Massachusetts Utilities Associates Common Voting Trust and Massachusetts Utilities Associates; Robert F. Krause, Harlow B. Lester, and Bernard S. Kanton, for the Public Utilities Division of the Commission; Winthrop, Stimpson, Putnam & Roberts, by James A. Austin, New York city, and Hinckley, Allen, Tillinghast & Wheeler, by Arthur M. Allen, Providence, R. I., for preferred stockholders committee of The Rhode Island Public Service Company; B. A. Brickley, Boston, Mass., Trustee for International Hydro-Electric System; L. J. Catheron, Boston, Mass., for International Hydro-Electric System; Henry F. Knight, Boston, Mass., and Lyons & Black, by John A. Lyons, and Lawrence Black, Boston, Mass., for Colonel Charles A. Tenney and other \$2 preferred stockholders of Massachusetts Power and Light Asso-

ciates; Herrick, Smith, Donald, Farley & Ketchum, by Henry R. Guild, Boston, Mass., for certain holders of \$6 preferred stock of New England Power Association; John Q. Tilson, New Haven, Connecticut, pro se; Matthew Lahti, Boston, Mass., pro se.

By the COMMISSION:

Introduction

New England Power Association (NEPA), a registered holding company, and its subholding companies, Massachusetts Power and Light Associates (MP&L), North Boston Lighting Properties (NOBO), The Rhode Island Public Service Company (RIPS), Massachusetts Utilities Associates Common Voting Trust (MUA Trust) and Massachusetts Utilities Associate (MUA), on March 6, 1944, filed an application for approval of a Plan of Simplification (original plan) for the purpose of complying with the provisions of § 11(b) (2) of the Public Utility Holding Company Act of 1935, 15 USCA § 79K (b) (2), and with the order of this Commission dated March 17, 1943, thereunder.¹

¹ Re International Hydro-Electric System, Holding Company Act Release No. 4168.

SECURITIES AND EXCHANGE COMMISSION

We had previously instituted proceedings pursuant to § 11(b) (2) of the act directed to the above-named applicants, and by our order of March 17, 1943, directed them to take, or cause to be taken, such action as might be necessary for the liquidation and dissolution of MUA Trust and for the elimination of MP&L, NOBO, RIPS, and MUA as holding companies in the NEPA holding company system and to submit to this Commission a plan or plans to effect compliance with the foregoing.

The original plan contemplated the liquidation and dissolution of MUA Trust and the combination of the other holding companies into a single reorganized holding company, and it was proposed that the reorganized holding company have outstanding \$60,000,000 principal amount of funded debt, 2,594,423 preferred shares with a dividend preference of \$2 per share and 5,227,368 common shares.

Public hearings on the original plan were held from time to time during the spring and summer of 1944. Various interested security holders and a preferred stockholders' committee for The Rhode Island Public Service Company \$2 cumulative preferred stock entered their appearances and were granted limited participation as provided in Rule XVII of our Rules of Practice.

On May 28, 1945, applicants ad-

ressed a letter³ to the Commission stating that the staff had advised them that it would be obliged to oppose the approval of the original plan unless the amount of senior securities contemplated by such plan was substantially reduced. In this letter the applicants expressed the view that if the proposed issuance of preferred shares were eliminated from the original plan it would be appropriate to increase the amount of funded debt in order to have additional cash for allocation, together with new common shares, to the present holders of certain classes of preferred shares of some of the subholding companies. The Commission, on June 1, 1945, issued a Statement of Tentative Conclusions⁴ indicating that with a new capital structure consisting solely of funded debt and common stock it would be within permissible limits for the reorganized holding company to have approximately \$85,000,000 of debt, provided appropriate protective provisions were adopted, including an adequate sinking fund and effective restrictions with respect to dilution of debt coverage.⁵

On June 21, 1945, the applicants filed an amended plan which contemplates the same general program and embodies the same basic features as the original plan. However, the amended plan proposes that the new holding company have outstanding only two classes of se-

³ For details of events preceding the Commission's receipt of this letter, see Re New England Power Asso. Holding Company Act Release No. 5839, June 1, 1945.

⁴ Id.

⁵ In stating our tentative conclusions we were not expressing a final judgment on the problems of fairness or any other aspect of the proposed original plan. We indicated, however, that if the applicants wished to file an amended plan proposing a new capital

structure for the reorganized holding company within the limits expressed in our tentative conclusions the matter would be set down for hearing. Furthermore, we made it plain that all interested persons would have a full opportunity to present their views and to urge, if they so desired, that the original plan or any particular feature of it be adopted in the ultimate determination of an appropriate plan to meet the requirements of our order of March 17, 1943.

RE NEW ENGLAND POWER ASSOCIATION

curities, namely, \$85,000,000 principal amount of debt and 6,695,075 common shares of \$20 par value per share. After appropriate notice, hearings were held on the amended plan. The applicant companies filed a brief in support of its amended plan of simplification and a number of participants filed briefs in opposition thereto, and we heard oral argument. Thereafter, on November 5, 1945, the applicant companies filed a further amendment setting forth in full the amended plan now under consideration and requesting that the record in this proceeding be reopened in order to introduce further evidence relating to said amended plan. A hearing was held on November 29, 1945, at which time the record was closed. Since no stockholder of the applicant companies or other interested party has argued that the original plan or any particular feature of it be adopted, our consideration will be given only to the proposals in the amended plan.

On the basis of the record, briefs, and arguments, we make the following findings:

* The consummation of the amended plan is conditioned on the prior or simultaneous issuance and sale of the new debt securities.

Description of Amended Plan

The amended plan proposes the termination of the MUA Trust and the substitution of a single holding company for NEPA and its other subholding companies. The single holding company will be a Massachusetts voluntary association, registered as a holding company under the Public Utility Holding Company Act of 1935. It will own all the assets of NEPA and its subholding companies subject to all their liabilities. For this purpose, the applicants propose to amend the present Declaration of Trust of NEPA to conform to the provisions of the amended plan, including a change of name to New England Electric System (NEES).

NEES would issue \$85,000,000 principal amount of debt securities,⁶ the proceeds from which are to be used in part for the discharge of the publicly held funded debt of NEPA and its subholding companies.⁶ The balance of the cash proceeds, together with additional cash from the company's treasury, will be used for the cash payments proposed to be made to the public holders of preferred

⁶ Debt of NEPA and its subholding companies as at December 31, 1944:

	Principal Amount	Proposed Payment Amount	% of Principal
MUA debt to bank	\$3,000,000	\$3,000,000	100.00
NOBO debt to bank	12,687,350	12,687,350	100.00
NEPA 5% debentures, due 1948	21,619,000	21,727,095	100.50
NEPA 5½% debentures, due 1954	23,081,500	23,312,315	101.00
Total	\$60,387,850	\$60,726,760	..

The NEPA 5 per cent debentures and the NEPA 5½% debentures are presently redeemable in whole or in part on any interest date on sixty days' notice at 100½ and 101, respectively.

The amended plan also provides that the proceeds of the funded debt to be issued by NEES will be used to discharge the funded debt of NEPA, MUA, and NOBO or any indebtedness incurred to refund such debt.

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stocks of NOBO, MP&L, MUA, and RIPS, as described below.

NEES proposes to issue 6,695,075 common shares having a par value of \$20 per share. The distribution of the

new common shares and cash proposed to be made to the various public stockholders of NEPA and its subsidiary companies is shown in the following table:

TABLE I

Presently Outstanding Securities Held by the Public ⁷	Cash and Common Shares ⁸ of NEES to Be Issued in Exchange
NOBO	
For each preferred share	\$36 and 1 share
For each common share	2 shares
MP&L	
For each \$2 preferred share	\$8 and 1-1/10 shares
For each \$2 2nd preferred share	3/100 of a share
For each common share	1/100 of a share
RIPS	
For each preferred share	\$16.50 and 1 share
For each Class A share	3-3/4 shares
MUA	
For each preferred share	\$16.50 and 1-1/2 shares
For each common share ⁹	15/100 of a share
NEPA	
For each 6% preferred share	5-4/10 shares
For each \$2 dividend preferred share	1-8/10 shares
For each common share	65/100 of a share

The amended plan further provides that if dividends are not declared from and after January 1, 1945, and prior to the consummation date herein, an amount in cash equal to the deficiency shall be added to the securities deliverable in the respective exchanges for publicly held shares under the amended plan as follows: dividends on the NOBO preferred, MUA preferred and the RIPS preferred and Class A

shares at the full rate until the effective date of the amended plan; and dividends on the MP&L \$2 preferred, the NEPA 6 per cent preferred and \$2 dividend preferred and the NOBO common shares to the extent of corporate net income applicable thereto from January 1, 1945, to the effective date, but such dividends on the preferred shares of MP&L and NEPA shall not be in excess of the full rate

⁷ There are also presently outstanding in the hands of the public warrants, fractional warrants, scrip certificates, and share trust certificates which are to receive in exchange certain new common shares and cash. The amended plan provides that the scrip certificates representing 2 1/4 preferred shares and 2 1/4 common shares of NOBO, the fractional warrants representing 47 preferred shares of MUA, the voting trust certificates for 119 common shares of MUA, and the fractional warrants of NEPA representing 14 of the 6 per cent preferred shares and 7 common shares may all be exchanged for whole shares, or for the new common shares to be issued for such whole shares, if presented within sixty days after published notice, and any not so presented will become void; the warrants issued in 1926 by RIPS providing for pay-

ments aggregating \$6,128.10 will be paid if presented within sixty days after published notice, and any not so presented will become void; and holders of share trust certificates still outstanding and issued by NOBO Share Trust, which was terminated in 1931, will receive therefor new common shares in the reorganized holding company, and cash in the case of NOBO preferred, to be exchanged for the shares of NOBO represented by such share trust certificates.

⁸ No fractional shares will be issued, but fractional scrip exchangeable for whole shares will be delivered for this purpose. Such fractional scrip will not be entitled to dividends and is to become void five years after the consummation date.

⁹ Represented by voting trust certificates.

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of dividends accruing thereon. All dividends will terminate as of the effective date of the amended plan.¹⁰

It is proposed that when the amended plan is consummated, the rights of all the public security holders of NEPA and its subholding companies shall cease and such holders will be entitled only to receive the new common stock in NEES and cash, if any, as provided under the amended plan. The amended plan provides that exchanges may be made within three years after the consummation date, after which time NEES may direct its exchange agent to sell the unexchanged shares and, for an additional period of two years after such 3-year period, the holders of old shares will be entitled to receive their share of the proceeds from such sale (or of the new shares if they have not been sold) plus accrued dividends. At the end of the 5-year period subsequent to the consummation date, any shares or cash held by the exchange agent will be delivered to NEES as its property, except that the time may be extended under appropriate circumstances.

The applicants contemplate having a simultaneous closing at which the assets and liabilities of the system are transferred and assumed, the new debt is sold and the old debt is retired and the cash and new common shares are delivered in trust (or under some appropriate arrangement for delivery to the shareholders) against surrender of their present certificates.

After the payment of the publicly held debt and the exchange of NEES common shares and cash for the public-held preferred and common stocks of NEPA and its subholding companies, MP&L, NOBO, RIPS, MUA, and MUA Trust will be dissolved.

The joint application filed by NEPA and its subholding companies requests that we find the amended plan necessary to effectuate the provisions of § 11(b) and fair and equitable to the persons affected thereby, and that we take such other action as appears appropriate. The applicants further request that upon issuing our order approving the amended plan, we apply to the appropriate United States district court in order to enforce and carry out the terms of the amended plan. The amended plan makes no provision for a stockholders' vote with respect to any of the transactions proposed therein.

Description of the NEPA System

We have previously described NEPA and its subsidiaries, including the formation, acquisition, and function of its subholding companies.¹¹ For our present purposes, it will be helpful to describe briefly the companies in the system, the properties owned, and the areas served.

The direct operating subsidiaries of NEPA, together with their subsidiaries (with indentations to show corporate relationships), and the approximate percentages of voting power held therein are as follows:

¹⁰ The amended plan provides that the effective date shall not be more than forty-five days prior to the date of actual consummation.

¹¹ See Re International Hydro-Electric System, Holding Company Act Release No. 4168, March 17, 1943.

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TABLE II

Name	Nature of Business	Percentage of Voting Power
Attleboro Steam and Electric Co.	Electric utility	100.0
Bellows Falls Hydro-Electric Corp.	Electric utility	100.0
Connecticut River Development Co.	Owning properties	100.0
Fuel Research Development Corp.	Manufactured gas research ..	43.4
Connecticut River Power Company	Electric utility	100.0
Fall River Electric Light Company	Electric utility	56.1
Montaup Electric Company	Electric utility	33.3
Gardner Electric Light Company	Electric utility	63.0
Granite State Electric Company	Electric utility	100.0
Green Mountain Power Corporation	Electric and gas utility	100.0
Hartford Water Company	Water utility	100.0
The Mystic Power Company	Electric and gas utility	100.0
New England Power Company	Electric utility	88.6
New England Power Service Company	Service company	100.0
Quincy Electric Light and Power Co.	Electric utility	100.0
Worcester County Electric Company	Electric and gas utility	100.0

The following table shows the shares of subsidiary holding companies held by NEPA:

TABLE III

	Shares Owned by NEPA	Percentage of Total Shares Outstanding
MP&L \$2 preferred stock	313,681	24.7
MP&L \$2 2nd preferred stock	291,949	98.1
MP&L common stock	1,576,284	90.4
MUA preferred stock	16,419	2.8
MUA common voting trust certificates	1,358,091	76.3
RIPS preferred stock	1,784	0.4
RIPS Class A stock	77,494	96.0
RIPS Class B stock	2,268,167	100.0

The direct operating subsidiaries of MP&L, a Massachusetts voluntary association, and the approximate percentages of voting power it holds therein are as follows:

TABLE IV

Name	Nature of Business	Percentage of Voting Power
Lawrence Gas and Electric Co.	Electric and gas utility	78.9 ¹²
The Lowell Electric Light Corp.	Electric utility	58.4 ¹³

MP&L also owns shares of NOBO as follows:

TABLE V

	Shares Owned by MP&L	Percentage of Total Shares Outstanding
NOBO preferred ..	188,266	82.5
NOBO common ...	430,230	99.3

The direct operating subsidiaries of NOBO, a Massachusetts voluntary association, and the approximate percentages of voting power it holds there-in are as follows:

¹² The total system voting power is 90.4 per cent if the voting power held directly by NEPA is included.

¹³ The total system voting power is 59.4 per cent if the voting power held directly by NEPA is included.

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TABLE VI

Name	Nature of Business	Percentage of Voting Power
Beverly Gas and Electric Company	Electric and gas utility	63.5
Eastern Massachusetts Electric Co.	Electric utility	100.0
Gloucester Electric Company	Electric utility	93.8
Haverhill Electric Company	Electric and gas utility	53.3 ¹⁴
Malden Electric Company	Electric utility	93.4
Malden and Melrose Gas Light Co.	Gas utility	97.4
Salem Electric Lighting Company	Electric utility	99.3
Salem Gas Light Company	Gas utility	92.9
Suburban Gas and Electric Company	Electric and gas utility	97.5
Salem Terminal Corporation	Real estate and coal handling equipment	10.0 ¹⁵

The direct operating subsidiaries of MUA, a Massachusetts voluntary association, and the approximate per-

centages of voting power it holds therein are as follows:

TABLE VII

Name	Nature of Business	Percentage of Voting Power
Amesbury Electric Light Company	Electric utility	99.2
Arlington Gas Light Company	Gas utility	100.0
Athol Gas and Electric Company	Electric and gas utility	100.0
Central Massachusetts Electric Co.	Electric utility	100.0
Gloucester Gas Light Company	Gas utility	100.0
Leominster Gas Light Company	Gas utility	100.0
Northampton Electric Lighting Co.	Electric utility	100.0
Northampton Gas Light Company	Gas utility	100.0
Northern Berkshire Gas Company	Electric and gas utility	100.0
Norton Power and Electric Company	Electric utility	100.0
Norwood Gas Company	Gas utility	98.4
Southern Berkshire Power & Electric Co.	Electric utility	92.0
The Spencer Gas Company	Electric and gas utility	100.0
Wachusett Electric Company ¹⁶	Electric and gas utility	100.0
Weymouth Light and Power Company	Electric utility	99.1
Winchendon Electric Light and Power Co.	Electric utility	99.7
Worcester Suburban Electric Co. ¹⁷	Electric and gas utility	98.3

The direct operating subsidiaries of RIPS, a Rhode Island corporation, together with their subsidiaries (with indentations to show corporate rela-

tionships), and the approximate percentages of voting power held therein are as follows:

TABLE VIII

Name	Nature of Business	Percentage of Voting Power
Providence Steam Company	Steam	100.0
The Narragansett Electric Company	Electric and gas utility	100.0
Rhode Island Power Transmission Co.	Electric utility	100.0
United Electric Railways Company ¹⁸	Transportation	99.1
Yellow Cab Company ¹⁹	Taxicab	100.0
Monahan Taxi Company ¹⁸	Taxicab	100.0

¹⁴ The total system voting power is 68.4 per cent if the voting power held directly by NEPA and MP&L is included.

¹⁵ The balance of the voting securities of this company is owned by certain of the foregoing subsidiaries of NOBO.

¹⁶ On June 1, 1945, the Commission approved the merger of Leominster Electric Light and Power Company and Middlesex County Electric Company, two wholly owned subsidiaries of MUA, into Wachusett Electric Company. Holding Company Act Release No. 5846.

¹⁷ On June 19, 1945, the Commission approved the merger of Milford Electric Light and Power Company and Union Light & Power Company, two wholly owned subsidiaries of MUA, into Worcester Suburban Electric Company. Holding Company Act Release No. 5875.

¹⁸ These transportation operations in the system, consisting of electric and motorbus street railway and taxicab service, are limited to the state of Rhode Island.

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The total area in which the above companies in the NEPA system operate is within the four New England states of Vermont, New Hampshire, Massachusetts, and Rhode Island, plus a small section of southeastern Connecticut. The total area served is approximately 6,165 square miles and the total population is about 2,580,000.

For the twelve months ended December 31, 1944, NEPA and its subsidiaries, including MUA and its subsidiaries (which are not consolidated for accounting purposes), had aggregate gross revenues of \$85,920,156, consolidated gross income of \$17,462,756 and consolidated net income of \$4,094,951. Appendix A attached hereto shows condensed consolidated balance sheets as at December 31, 1944, of NOBO, MP&L, RIPS, MUA, and NEPA, and also condensed consolidated balance sheets of NEPA and its subsidiaries together with MUA and its subsidiaries. As at December 31, 1944, total assets of the system on a consolidated basis were reported at \$480,052,766, including property, plant and equipment, and construction work in progress of \$337,009,539.

A condensed consolidated income statement for the year 1944 and a condensed consolidated balance sheet as at December 31, 1944, are shown in the following tables:

TABLE IX

Condensed Consolidated Income Statement of NEPA and Subsidiaries, Including MUA and Subsidiaries

For the Twelve Months Ended December 31, 1944

Gross operating revenues:	
Sales of electric energy	\$68,864,169
Sales of gas	7,160,255
Transportation revenue	9,639,944
Sales of water and steam, rentals of operating property and miscellaneous operating revenue	255,788
Total gross operating revenues	\$85,920,156
Expenses:	
Operation	\$39,709,276
Maintenance	5,701,764
Depreciation	7,290,173
Taxes other than Federal income taxes	8,877,858
Federal income taxes	7,763,526
Total expenses	\$69,342,597
Net operating income	\$16,577,559
Other income	885,197
Gross income	\$17,462,756
Interest and other charges:	
Interest on funded debt	\$5,847,673
Amortization of debt discount and expense	662,725
Other interest expense	103,047
Amortization of electric plant acquisition adjustments, electric plant adjustments and organization expenses	389,234
Other charges	15,443
Preferred and Class A dividends of subsidiaries	5,656,464
Minority interest	693,219
Total interest and other charges	\$13,367,805
Net income	\$4,094,951
Preferred dividend requirements of NEPA	3,977,518
Balance applicable to NEPA common stock	\$117,433

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TABLE X

Condensed Consolidated Balance Sheet of
NEPA and Subsidiaries Including MUA
and Subsidiaries as at December 31, 1944

Assets and Other Debits

Total property, plant and equipment, including intangibles and construction work orders in progress	\$337,009,539
Cost of investments in shares of subsidiaries in excess of the relative net assets shown by the books of the subsidiaries at dates of acquisition of shares, giving effect to any subsequent adjustments	81,950,054
Securities at cost or nominal amounts	15,807,029
Total capital assets	\$434,766,622
Current assets	\$38,330,903
Prepaid expenses and deferred charges	\$465,977
Other assets	\$6,489,264
Total assets and other debits	\$480,052,766

Liabilities and Other Credits

Share capital:	
Common shares of NEPA ...	\$50,614,346
Preferred shares of NEPA ..	66,166,116
Total share capital	\$116,780,462
Preferred and Class A stocks of subsidiary companies publicly held including accrued dividends thereon	\$90,477,588
Minority common stockholders' interest in capital stocks, premiums and surplus of subsidiary companies	\$13,514,669
Long-term debt:	
Subsidiary companies	\$96,530,250
NEPA	44,700,500
Total long-term debt	\$141,230,750
Current liabilities	\$15,394,370

Reserves:

Reserves for depreciation	\$78,409,905
Other reserves	1,092,391
Total reserves	\$79,502,296
Deferred credits	\$2,559,215
Premiums on preferred stocks of subsidiaries	\$315,460
Consolidated capital surplus of subsidiaries	\$99,256
Surplus paid in (NEPA'S initial surplus)	\$1,500,000
Consolidated earned surplus	\$18,678,700
Total liabilities and other credits	\$480,052,766

Total property, plant, and equipment, including intangibles and construction work orders in progress in the amount of \$337,009,539 also included organization expenses of \$440,839 with respect to subholding companies. With this latter amount eliminated, the combined property account of the operating companies in the system, including construction work orders in progress, amounted to \$336,568,700¹⁹ as at December 31, 1944. Depreciation reserves per books aggregated \$78,495,144 or 23.3 per cent thereof leaving net property per books in the aggregate amount of \$258,073,556, as shown in the following table:

TABLE XI

	Gross	Depreciation Reserves	Net
Electric property	\$281,498,234	\$64,612,329	\$216,885,905
Gas property	27,359,360	7,610,059	19,749,301
Transportation property	14,943,647	5,753,944	9,189,703
Other property	2,986,785	518,812	2,467,973
Miscellaneous property	7,538,487	..	7,538,487
Construction in progress	2,242,187	..	2,242,187
Total per books	\$336,568,700	\$78,495,144	\$258,073,556

¹⁹ This amount includes \$11,751 of office furniture and miscellaneous equipment owned by NEPA.

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The record indicates that all system companies required to file original cost studies with the Federal Power Commission and their respective state Commissions have done so with the exception of Haverhill Electric Company which company expects to complete and file such study in the near future.²⁰

Of the original cost studies filed, those of Narragansett and Rhode Island Power Transmission Company (RIPT) have been examined and approved by the Federal Power Commission and the Department of Business Regulation of Rhode Island, and that of Fall River Electric Light Company, which disclosed no amounts classifiable in Account 100.5²¹ or Account 107,²² has been examined and approved by the Federal Power Commission. The original cost study of Green Mountain Power Corporation (Green Mountain) has been examined and approved in so far as amounts includible in the several accounts are concerned, but to date neither the Federal Power Commission nor the Vermont Public Service Commission has taken any final action.

Bellows Falls Hydro-Electric Corporation and Connecticut River Power Company operate in Vermont and New Hampshire and New England Power Company operates in Vermont

and Massachusetts; Granite State Electric Company operates in New Hampshire and The Mystic Power Company operates in Connecticut. These five companies filed original cost studies with their respective State commissions and the Federal Power Commission showing no amounts classifiable in Account 100.5 or Account 107 but to date no action has been taken by any of the commissions involved.

The following companies, all of which operate in Massachusetts, have filed original cost studies with the state Commission and the Federal Power Commission showing no debit amounts in Account 100.5 or Account 107: Attleboro Steam and Electric Company, Gardner Electric Light Company, Eastern Massachusetts Electric Company, Lawrence Gas and Electric Company, The Lowell Electric Light Corporation, Amesbury Electric Light Company, Athol Gas and Electric Company, Northern Berkshire Gas Company, Union Light and Power Company, Wachusett Electric Company and Winchendon Electric Light and Power Company. No action has as yet been taken by either of the Commissions involved.

All of the remaining electric companies in the system operate in Mas-

²⁰ There are 21 companies in the system which are required to file original cost studies with the Federal Power Commission. A summary of the aggregate property accounts of the companies in the system is shown as follows:

Original cost of properties (studies required and completed) ..	\$227,826,264
Original cost studies required but not completed	5,573,017
Original cost studies not required	100,927,232
Total	\$334,326,513

²¹ Amounts classified in Account 100.5 represent, generally speaking, the amounts by which the arm's-length cost of property to the company exceeds the original cost of such property when first devoted to public service.

²² Amounts classified in Account 107 represent, generally speaking, the amounts by which the carrying value of property per books exceeds the arm's-length cost of such property to the company.

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sachusetts and are not under the jurisdiction of the Federal Power Commission but are under the supervision of the Massachusetts Department of Public Utilities. These companies have not made formal original cost studies as there is no requirement therefor but the record indicates that in view of the accounting requirements of the Massachusetts Department of Public Utilities which have been in effect for many years the excesses over original cost would be negligible, if anything at all.

The original cost study of Narragansett which was approved by the Federal Power Commission and the Department of Business Regulation of Rhode Island classified \$11,761,646 in Account 100.5 and \$3,533,809 in Account 107, as at January 1, 1937. Of the total amount classified in Accounts 100.5 and 107, aggregating \$15,295,455, Narragansett disposed of the entire \$3,533,809 classified in Account 107 and \$1,521,695 of the amount classified in Account 100.5, or a total of \$5,055,504, leaving an unamortized balance in Account 100.5 of \$10,239,951 as of December 31, 1944. The balance remaining in Account 100.5 is to be amortized over a 15-year period by equal annual charges of \$706,204 to Account 537, Miscellaneous Amortization, by order of the Federal Power Commission, dated August 22, 1944. In addition to the foregoing amounts classified in Accounts 100.5 and 107, Narragansett in 1937 classified in a separate "suspense general" asset account \$454,346 of Other Segregated Intangibles (organization expense). This amount is being amortized over a period of twenty years by equal

monthly charges to income deductions, which amortization program began in January, 1937. The balance of organization expenses as at December 31, 1944, amounted to \$272,608. In 1937 Narragansett also segregated in Gas Plant Acquisition Adjustments an amount of \$121,784 which, by order of the Department of Business Regulation of Rhode Island, is being amortized over a period of twenty years by equal monthly charges to depreciation. The balance in this account as at December 31, 1944, amounted to \$57,230.

The original cost study of RIPT was reviewed by the Federal Power Commission and the Department of Business Regulation of Rhode Island. Pursuant to instructions issued by the said Commissions, RIPT classified in Account 107 the sum of \$142,160, which is being amortized by charges to Account 537, Miscellaneous Amortization, over the period ending December 31, 1949. The balance in this account as at December 31, 1944, amounted to \$67,075.

The original cost study of Green Mountain which has been examined and approved by the Federal Power Commission and the Vermont Public Service Commission only as to amounts includible in the several accounts, shows \$5,691,391 classified in Account 100.5 and \$423,627 in Account 107. Neither Commission has as yet ordered any disposition of these amounts.

The unamortized balances of electric plant acquisition adjustments, electric and gas plant adjustments and organization expenses which were included in the property accounts as at December 31, 1944, were as follows:

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TABLE XII

	Electric Plant Acquisition Adjustments Account 100.5	Electric Plant Adjust- ments Account 107	Gas Plant Acquisi- tion Adjust- ments	Organiza- tion Expenses	Total
Narragansett	\$10,239,951	..	\$57,230	\$272,608	\$10,569,789
RIPT .....	..	\$67,075	..	..	67,075
Green Mountain	5,691,391	423,627	..	..	6,115,018
Total	\$15,931,342	\$490,702	\$57,230	\$272,608	\$16,751,882

If the property accounts were adjusted to eliminate the unamortized balances of electric plant acquisition adjustments, electric and gas plant adjustments, and organization expenses, aggregating \$16,751,882 as shown in Table XII above, the adjusted book amounts of property would aggregate \$319,816,818. After subtracting depreciation reserves of \$78,495,144 per books of subsidiaries, the adjusted net property would aggregate \$241,321,674 as at December 31, 1944.²³

Nothing herein contained shall be construed as affecting the jurisdiction of the Federal Power Commission or of any state Commission over accounting matters of the operating companies involved in these proceedings.

Applicable Statutory Standards

Before we can approve the proposed amended plan of NEPA and its subholding companies under § 11(e) of the act, we must find that the amended plan is "necessary" to effectuate the

provisions of § 11(b) and "fair and equitable" to the persons affected by such amended plan. Furthermore, we must find that the proposed transactions incident to the consummation of the amended plan satisfy the requirements of the applicable provisions of the act.

Necessity for the Plan

[1] In our order of March 17, 1943, we found that the continued existence of RIPS, MUA Trust, MUA, MP&L, and NOBO, as holding companies in the NEPA holding company system, unduly and unnecessarily complicates the structure, and unfairly and inequitably distributes voting power among security holders of the NEPA holding company system and we ordered, as steps necessary to insure compliance with the requirements of § 11(b) (2) of the act, that RIPS, MUA, MP&L, and NOBO be eliminated as holding companies in the NEPA holding company

²³ It will be noted that New England Power Company, Bellows Falls Hydro-Electric Corporation, and Connecticut River Power Company have filed original cost studies with the Federal Power Commission for which studies no approvals have been issued. Although these studies indicate no amounts classifiable in Accounts 100.5 or 107, Volumes Nos. 31 and 32 of Federal Trade Commission Report (pursuant to Senate Resolution No. 83, Seventieth Congress, First Session) indicate possible upward revaluations and intra-system profits for these wholesale electric companies as follows:

New England Power Company ..	\$5,995,160
Bellows Falls Hydro Electric Corp.	4,607,328
Connecticut River Power Company	3,844,500
Total	\$14,446,988

If the net property per books were further adjusted to eliminate these items, the adjusted net property would aggregate \$226,874,686.

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system and that MUA Trust be liquidated and dissolved, "to the end that the system shall contain only one public utility holding company (which is not at present also a public utility company)."⁸⁴ The Commission in its findings and opinion and order of March 17, 1943, did not attempt to prescribe the method or methods through which the applicants might comply with said order or to enumerate all the possible means of accomplishing the action therein ordered. However, the Commission did indicate several alternative avenues which at the time appeared to be available for complying with its order, pointing out that while it was enumerating such possible avenues of action, its suggestions were not intended as a limitation on the present applicants.

One of the plans so enumerated by the Commission provided that the assets presently owned by NEPA, RIPS, MUA, MP&L, and NOBO be combined into one company, the securities of which would be distributed among the security holders of NEPA and its subholding companies. The pending amended plan now before us is based on this suggested alternative.⁸⁵

The amended plan, if consummated, will result in a single holding company in place of the six holding companies

now in existence, and will effectuate compliance with the "great-grandfather" provision (the second sentence) of § 11(b) (2). In addition, the amended plan would simplify the corporate structure by eliminating 18 different security issues and substituting therefor only two classes of securities, namely, \$85,000,000 in debt securities and 6,695,075 common shares having a par value of \$20 per share. This will improve the present over-capitalized structure, as indicated by Tables IX and X, by the reduction of senior securities of NEPA and its subholding companies held by the public. Furthermore, Irwin L. Moore, president of NEPA, testified that the proposed debt of NEES would have a substantial sinking fund which will further improve the structure.⁸⁶ Obviously, then, the consummation of the amended plan will bring about a considerable simplification of the over-complicated capital structure of the NEPA system.

The amended plan more equitably distributes the voting power among the security holders of the NEPA holding company system. At the present time NEPA is a subholding company of International Hydro-Electric System (IHES), a registered holding company, which company presently controls 51.5 per cent of the total

⁸⁴ No petition to review this order was filed and, accordingly, such order has become final.

⁸⁵ The Commission has held that a plan need not be disapproved on the ground that it is not the only possible plan for effectuation of § 11(b). It is sufficient if the plan is a suitable means of achieving results necessary under § 11(b), though different means might have been chosen and further steps will be necessary. See *Re United Gas Improv. Co. Holding Company Act Release No. 5440, Nov. 24, 1944*; *Re The Commonwealth & Southern Corp. (1945) Holding Com-*

pany Act Release No. 5825, 59 PUR(NS) 65, 80, and cases cited in footnote 14 therein.

⁸⁶ Although the exact provisions of the debt securities to be issued have not yet been determined, Moore stated that it was contemplated that the sinking fund would amount to about \$1,250,000 per year for the first five years, \$1,500,000 per year for the next five years, \$1,750,000 per year for the third five years, with somewhat higher figures in subsequent years. Moore stated that this would result in retiring about 64 per cent of the \$85,000,000 issue prior to maturity, assuming a maturity of thirty years.

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voting power of NEPA, and NEPA in turn controls directly and through its various subholding companies 51 subsidiary companies. As will be seen hereinafter, the common stock of NEPA has only a small interest in this enterprise, yet through such stock interest IHES has had the power to control the entire system. This highly leveraged control is obviously in contravention of § 11(b) (2) which requires that voting power be fairly and equitably distributed among security holders of a holding company system.²⁷ Under the amended plan voting control of NEES will be distributed among various participating security holders of NEPA and its subholding companies and IHES would retain only about 8 per cent of the voting control of NEES.²⁸ Under the amended plan, therefore, the voting power will attach to a security which will represent the real equity in the enterprise, namely, the common stock of NEES.

The amended plan contemplates the retention of all the system's electric utility properties, substantially all of which are claimed by the applicants to constitute an integrated electric utility system which the applicants contend would probably be destroyed if any other method were proposed for com-

pliance with our § 11(b) (2) order of March 17, 1943. In this connection the record indicates that the NEPA electric system, as now constituted, comprises hydro-generating plants located principally on the Connecticut and Deerfield rivers, steam generating plants along the New England coast and distribution systems and transmission lines connecting the production and distribution facilities. In addition, it appears that the entire electric system of NEPA is interconnected, almost entirely through its own lines, and also is connected with other electric systems in adjacent areas. Accordingly, the amended plan, if consummated, will enable the electric properties in the system to be retained under a common ownership and afford additional economies in the operation of the electric properties as a single interconnected and coordinated system by the elimination of the subholding companies in the present system.²⁹

The applicants further contend that the amended plan is a step toward the solution of the system's major § 11 (b) (1) problem, namely, the retention of the gas utility and the transportation assets in the system.³⁰ In this connection, applicants introduced testimony indicating that such assets

²⁷ We have previously found that the continued existence of NOBO, MP&L, MUA, MUA Trust, and RIPS, as holding companies in the NEPA system, unfairly and inequitably distributes voting power among the security holders of the NEPA system. See *Re New England Power Asso. Holding Company Act Release No. 4168*, March 17, 1943. The dissolution of these subholding companies as corporate entities will be in compliance with § 11(b) (2) and our order of March 17, 1943.

²⁸ On July 21, 1942, the Commission ordered IHES to liquidate and dissolve. See 11 SEC 888. In the course of proceedings to that end which are now pending in the 63 PUR(NS)

district court of the United States, district of Massachusetts, the court on November 13, 1944, appointed Bartholomew A. Brickley trustee of IHES and authorized him, among other things, to operate such company's business. Necessarily, until such time as the final liquidation and dissolution of IHES occurs, the trustee will exercise the 8 per cent voting control in the new common shares of NEES.

²⁹ Cf. *Re Georgia Power & Light Co. (1945) Holding Company Act Release No. 5568*, 59 PUR(NS) 468.

³⁰ See *Re The North American Co. (1945) Holding Company Act Release No. 5707*, 58 PUR(NS) 173.

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can be disposed of more readily by a system having only one holding company and that other assets of equivalent value can be substituted more appropriately without materially affecting the operations of the system and without prejudice to any security holder. However, we do not express any opinion at this time as to the extent that action may have to be taken under § 11(b) (1).

In the light of the foregoing, it appears that the amended plan provides an appropriate means of accomplishing many of the steps contemplated under § 11 (b), and we therefore find that it is necessary to effectuate the provisions of that section.

Fairness of the Amended Plan

[2, 3] The amended plan provides that all intercompany holdings between NEPA and its subholding companies are to be eliminated and common shares of NEES, plus cash, in some instances, are to be exchanged for presently outstanding shares of NEPA and its subholding companies held by the public. The proposed allocations must be tested in order to determine whether each class of securities of NEPA and its subholding companies is to receive its equitable equivalent under the amended plan.

Moore testified that no one formula or rule was used by the applicants in arriving at the proposed allocations but, instead, many factors were taken

into consideration and the proposed allocations represent the applicants' ultimate judgment. With respect to the twelve classes of shares of NEPA and its subholding companies presently held by the public, of which eight are preference and four are common, Moore said that the management reviewed the rights and limitations of these securities, the amount of cash available (approximately \$25,000,000) and the position of each class of security in the capital structure in relation to asset and earnings coverages, dividend records, market appraisal, and other considerations and undertook to allocate the cash against the top quality segment of preferred shares and compensate the remainder of such interest with new common shares that would provide reasonably assured equivalent income plus compensation for loss of any preference position. The applicants also deem it appropriate to allocate only new common shares to the presently outstanding common shares and to certain of the preferred shares.

We have on numerous occasions discussed at length our application of the "fair and equitable" standard of § 11 in this type of case and there is no need for repeating such discussion here.³¹ In brief, we have held that in determining the equitable equivalent of the security being surrendered appropriate consideration must be given to the entire set of rights and limitations of the security in the business context

³¹ See *Re United Light & P. Co.* (1943) Holding Company Act Release No. 4215, 49 PUR(NS) 8; plan approved and enforced (1943) 51 PUR(NS) 235, 51 F Supp 217; *aff'd sub nom. Otis & Co. v. Securities and Exchange Commission* (1944) 53 PUR(NS) 129, 142 F2d 411; *aff'd* (1945) 323 US 624, 89 L ed 511, 57 PUR(NS) 65, 65 S Ct 483;

Re Electric Bond and Share Co. (1945) Holding Company Act Release No. 6121, 61 PUR(NS) 287; *Re American Power & Light Co.* (1945) Holding Company Act Release No. 6176, 61 PUR(NS) 129; *Re El Paso Electric Co. Holding Company Act Release No. 5499*, Dec. 13, 1944.

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of the issuer, apart from the impact of § 11.

Although, in our analysis of the various allocations proposed in the amended plan, data are presented with respect to the underlying assets applicable to the securities being surrendered and to be received, our conclusions with respect to the fairness of each allocation are based primarily upon an analysis of the earnings prospects of each presently outstanding security as compared with the prospective earnings allocated to the holders of such security if the amended plan is consummated.³³ With these principles as a starting point, we shall now consider the rights of the public security

holders of NEPA and its subholding companies.

NEES Common Shares to Be Issued

Appendix A [omitted herein] attached hereto shows, among other things, a pro forma condensed consolidated balance sheet of NEES and its subsidiaries as at December 31, 1944. It will be noted that the pro forma balance sheet reflects a net reduction of assets of \$38,514,140.³⁴

The consolidated capitalization and surplus of NEES as at December 31, 1944, on a pro forma basis and adjusted to reflect underlying net assets of subsidiaries are shown in the following table:

TABLE XIII

	Pro Forma		Adjustment	Adjusted	
	Amount	%		Amount	%
Funded debt of subsidiaries ...	\$80,942,900	23.5	\$..	\$80,942,900	29.5
Preferred stocks of subsidiaries	22,366,034	6.5	..	22,366,034	8.1
Minority interests in subsidiaries	11,338,554	3.3	..	11,338,554	4.1
Subtotal	\$114,647,488	33.3	\$..	\$114,647,488	41.7
Debt of NEES	85,000,000	24.7	..	85,000,000	31.0
Common equity of NEES	144,176,680	42.0	(69,196,374) ³⁴	74,980,306	27.3
Total capitalization and surplus	\$343,824,168	100.0	(\$69,196,374)	\$274,627,794	100.0
Equity per common share	\$21.53		(\$10.33)	\$11.20	

³³ Consolidated Rock Products Co. v. DuBois (1941) 312 US 510, 541, 85 L ed 982, 61 S Ct 675; Group of Institutional Investors v. Chicago, M. St. P. & P. R. Co. (1943) 318 US 523, 87 L ed 959, 63 S Ct 727; Re The United Light & P. Co. *supra*; Re Puget Sound Power & Light Co. Holding Company Act Release No. 4255, April 27, 1943, enforced in the United States district court for Massachusetts; Re Virginia Pub. Service Co. Holding Company Act Release No. 4618, Oct. 16, 1943.

³⁴ A more detailed discussion of the adjustments of assets on a corporate basis is shown later herein under the heading "Proposed Accounting Treatment."

³⁴ This adjustment is determined as follows:

Carrying value of stocks of subsidiaries on books of NEES ..	\$209,435,775
Underlying net worth of stocks of subsidiaries	156,991,283
Excess	\$52,444,492
Plant adjustments and plant acquisition adjustments	16,751,882
Total adjustment	\$69,196,374

If further adjustment were made to eliminate the possible inflationary items of \$14,446,988 previously referred to, the common equity would amount to \$60,533,318 or 23.3 per cent of total capitalization and surplus of \$260,180,806, or \$9.04 per share of common stock of NEES.

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[4] Appendix B [omitted herein] attached hereto shows pro forma consolidated income statements of NEES and its subsidiaries, by years from 1934 to 1944, inclusive, together with 7-year³⁵ and 10-year³⁶ averages and the normal postwar year as estimated by the company. It is our view that, in considering past earnings as a guide to reasonably foreseeable earnings applicable to NEES, the 7-year average, which excludes the hurricane and war years, is more significant than the 10-year average. Appendix B shows that consolidated gross income on a pro forma basis ranged from a high of \$21,235,026 in 1936 to a low of \$17,666,756 in 1944 as shown in the following table:

TABLE XIV

Year	Pro Forma Consolidated Gross Income
1934	\$20,877,452
1935	19,931,726
1936	21,235,026
1937	20,266,017
1938	18,453,761

1939	19,401,945
1940	18,421,333
1941	18,451,785
1942	18,559,180
1943	17,818,203
1944	17,666,756

7-year average \$19,797,898

Postwar estimate \$19,354,000³⁷

The 7-year average earnings as reported by the company on a pro forma basis for NEES would appear to be more significant as a guide to future earnings if they were adjusted to compensate for the relatively low depreciation accruals made during the first few years of such period. The record indicates that the aggregate amounts of depreciation accruals reported during the first few years of that period, when the property was almost as large as it is at present, were substantially below the amounts reported in recent years and considerably below the amounts allowed or claimed for income tax purposes, as shown in the following tabulation:

TABLE XV

Year	Gross Property Excluding Construction Work in Progress	Depreciation Accruals	
		As Reported	Allowed or Claimed for Federal Income Taxes ³⁸
1934	\$323,276,415	\$5,240,049	\$7,793,000
1935	325,186,783	5,185,255	7,875,000
1936	327,335,040	5,491,733	7,879,000
1937	328,566,817	5,517,906	7,980,000
1938	328,505,177	5,543,701	8,083,000
1939	326,003,627	5,880,115	7,846,000
1940	326,244,065	5,862,190	7,473,000
1941	332,133,417	6,594,205	7,647,000
1942	334,850,478	7,297,818	7,863,000
1943	335,418,829	7,497,775	8,472,000
1944	334,767,352	7,290,173	8,243,000
7-year average		\$5,682,000	\$7,785,000
Postwar estimate		\$6,350,000	\$8,000,000

³⁵ This average includes the prewar years of 1934 through 1941, but excludes 1938, when the operations in the NEPA system were seriously affected by a hurricane.

³⁶ This average includes the years 1934 to 1943, inclusive.

³⁷ Although the amended plan shows esti-

mated normal postwar earnings of \$19,600,000, an exhibit prepared by the company to show the normal postwar income statement based on detailed estimates indicates earnings of \$19,354,000.

³⁸ These amounts are based on straight-line depreciation applied to the tax bases of

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Depreciation accruals as reported during the war years, have included substantial amounts for the write-off of certain street railway facilities by United Electric Railways Company (UER) and for the amortization of certain electric plant acquisition adjustment accounts by Narragansett, both of which companies are subsidiaries of RIPS. On the basis of the record before us we are of the opinion that the aggregate depreciation accruals of \$6,350,000 as estimated by the company for the postwar period are more appropriate than the 7-year average reported depreciation accruals in the amount of \$5,682,000.

The postwar estimate submitted by the applicants includes detailed estimates of revenues and expenses made by the operating personnel of NEPA. These estimates were made to represent a calendar year two years after

the close of hostilities and were based upon the assumptions, among others, that the proposed \$85,000,000 of debt will bear interest at a rate of 3½ per cent per year,³⁹ that the price of coal would be \$6.50 per ton at tide water, that Federal taxes would be 40 per cent, and that rate reductions of about \$600,000 per year would continue. While it is true that the pro forma consolidated gross income subsequent to 1939 has been less than the postwar estimate, we have given consideration to the fact that recent years have not been a reliable guide because of war conditions as they affected NEPA and its subsidiaries.⁴⁰

Pro forma earnings of NEES and subsidiaries on a consolidated basis are shown below for the year 1944,⁴¹ the 7-year average adjusted for depreciation accruals, and the postwar normal year as estimated by the applicants:

TABLE XVI

	Actual 1944	7-Year Average ⁴²	Postwar Estimate
Operating revenues	\$85,920,156	\$62,571,000	\$77,861,000
Operating expenses	69,138,597	45,118,000	60,118,000
Operating income	\$16,781,559	\$17,453,000	\$17,743,000
Nonoperating income	885,197	1,676,000	1,611,000
Gross income	\$17,666,756	\$19,129,000	\$19,354,000
Fixed charges	9,114,442	9,420,000 ⁴³	8,734,000
Net income	\$8,552,314	\$9,709,000	\$10,620,000
Ratio of gross income to fixed charges ...	1.94	2.03	2.22
Earnings per common share	\$1.28	\$1.45	\$1.59

the properties, which amounts are substantially less than the aggregate gross property per books.

³⁹ Moore testified that the interest rate applicable to the NEES debt was shown at 3½ per cent as a conservative figure, but that a lower interest rate was anticipated.

⁴⁰ The record indicates that unusually poor water conditions in New England which existed in 1940 and 1941 also accounted for reduced earnings in those years.

⁴¹ As previously indicated, we do not consider the earnings for 1944 to be particularly

significant as a guide to reasonably foreseeable future earnings. However, such earnings do reflect the most recent operations of this system and show the lowest net income for the past eleven years.

⁴² This statement is adjusted to reflect estimated postwar depreciation accruals of \$6,350,000 rather than reported depreciation accruals averaging \$5,682,000, or a difference of approximately \$668,000.

⁴³ Minority interests were reduced by \$97,401 due to increased depreciation accruals.

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Shareholders of NOBO

The consolidated capitalization and surplus of NOBO and its subsidiaries as at December 31, 1944, actual and

adjusted to reflect underlying net assets, are shown in the following tabulation:

TABLE XVII

	Actual		Adjustment	Adjusted	
	Amount	%		Amount	%
Minority interests in subsidiaries	\$4,086,220	9.1	\$.....	\$4,086,220	10.7
2½% bank loan of NOBO	12,687,350	28.2	.....	12,687,350	33.1
\$3 preferred stock of NOBO	11,404,013	25.3	.....	11,404,013	29.7
Common equity of NOBO	16,808,218	37.4	(6,649,418) ⁴⁴	10,158,800	26.5
Total	\$44,985,801	100.0	(\$6,649,418)	\$38,336,383	100.0
Equity per common share	\$38.79		(\$15.35)	\$23.44	

Earnings of NOBO and subsidiaries on a consolidated basis are shown as follows:

TABLE XVIII

	Actual 1944	7-Year Average ⁴⁵	Estimated Postwar
Operating revenues	\$13,393,604	\$10,898,812	\$13,461,400
Operating expenses	11,259,542	8,493,775	10,990,200
Operating income	\$2,134,061	\$2,405,037	\$2,471,200
Nonoperating income	131,983	300,663	218,200
Gross income	\$2,266,044	\$2,705,700	\$2,689,400
Fixed charges	649,395	843,637 ⁴⁶	731,700
Net income	\$1,616,649	\$1,862,063	\$1,957,700
Preferred dividend requirements	684,234	684,234	684,200
Balance	\$932,415	\$1,177,829	\$1,273,500
Ratios of gross income to:			
Fixed charges	3.49	3.21	3.68
Fixed charges and preferred dividend requirements	1.70	1.77	1.90
Earnings per common share	\$2.15	\$2.72	\$2.94

NOBO has outstanding promissory notes held by The First National Bank of Boston, The Chase National Bank of the city of New York, Chemical Bank & Trust Company, and Guaranty

Trust Company of New York in the aggregate amount of \$12,687,350 as at December 31, 1944, bearing interest at the rate of 2½ per cent per annum and maturing October 1, 1947.⁴⁷

⁴⁴ This adjustment represents the excess cost of investments in shares of subsidiaries over the relative net assets shown by the books of subsidiaries at dates of acquisition.

⁴⁵ The adjustment for depreciation accruals for NOBO and subsidiaries amounts to \$169,719 per year, which is the difference between the estimated postwar depreciation accruals of

\$956,000 and reported depreciation accruals averaging \$786,281 per year.

⁴⁶ Minority interests included in fixed charges have been reduced \$49,916 because of the adjustment for increased depreciation accruals.

⁴⁷ For details regarding the issuance of the promissory notes, see Re North Boston Lighting Properties (1942) 11 SEC 1251.

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The loan agreement provides that all or any part of the principal of the notes may be paid at any time prior to October 1, 1945, with a premium of 1 per cent and thereafter without premium, except that no premium is payable if the prepayment is made in connection with, or as a part of, a general refinancing following a liquidation of NOBO or a simplification of the corporate structure of the holding company system effected in compliance with the act. Since the amended plan provides for the prepayment of the promissory notes in full and in accordance with their provisions, there is obviously no unfairness to the holders of the notes.

The NOBO preferred stock has a par value of \$50 per share, is nonredeemable, and is entitled to a preference in dividends of \$3 per share per year, which dividend requirements have been paid regularly. The preferred stock has equal voting rights with the common stock. According to the Declaration of Trust of NOBO, the preferred stock is entitled to \$50 per share and accrued dividends in liquidation, which can be effected by a two-thirds vote of all outstanding shares, the preferred and common shares voting as a single class.

The amended plan proposes to allocate \$36 in cash and one share of common stock of NEES for each share of NOBO preferred stock. As shown in Table XIII above, the asset value per books of each share of new common stock of NEES to be issued is \$21.53. This amount plus the \$36 in cash results in a figure of \$57.53 per share of NOBO preferred stock. If the asset value per books were adjusted to reflect the underlying net

worth of the stocks of subsidiaries rather than the carrying value of such stocks on the books of NEES, such adjusted asset value would amount to \$11.20 per share of NEES common stock. This amount plus the \$36 in cash results in a figure of \$47.20 per share of NOBO preferred stock.

As previously indicated in Table XVII, adjusted assets applicable to the preferred stock of NOBO are well in excess of the preference in liquidation specified in the NOBO Declaration of Trust. Likewise the earnings applicable to the NOBO preferred stock, as shown in Table XVIII, are well in excess of the dividend requirements. Absent the impact of § 11 of the Holding Company Act and assuming for the moment no likelihood of dissolution which would bring in to play the \$50 per share liquidating preference, the right to receive \$3 per share per year in perpetuity would produce a value for such preferred stock well in excess of its liquidating preference. On this assumption, an appropriate capitalization rate for the \$3 in dividends might well be in the neighborhood of 4 per cent, in view of the high coverage with respect to such dividends. On this basis, i.e., giving no weight to the liquidating price, the stock would have a value of approximately \$75 per share. Assuming that the \$36 in cash to be received by the holders of each share of NOBO preferred stock compensated such holders for about one-half of their claim, the balance of their claim would have to be compensated for by the receipt of one share of common stock of NEES. Thus, the right to receive \$1.50 in dividends would have to be compared with the 7-year average ad-

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justed earnings for the NEES common stock of \$1.45 per year, estimated postwar earnings of \$1.59 per year, and estimated dividends of approximately \$1.15 and \$1.30 annually per share on the basis of these earnings levels.

However, as previously indicated in Table V, MP&L owns 82½ per cent of the preferred stock and 99.3 per cent of the common stock of NOBO. Thus, it would appear that MP&L has the voting power to vote the dissolution and liquidation of NOBO.⁴⁸ In this connection, the record indicates that for some time prior to the filing of the original plan, the management has had under consideration the dissolution of NOBO because it is economically desirable to do so apart from the impact of § 11 of the act. If we assume that the value of the NOBO preferred stockholders' claim is limited by the liquidation preference of \$50 per share, the allocation of \$36 in cash would compensate them for 36/50 of their total claim, including their claim of dividends, and would leave 84 cents in dividends per year to be compensated for by one share of NEES common stock. Thus, the right to receive 84 cents in dividends would have to be compared with the 7-year average adjusted earnings, and estimated postwar earnings of \$1.45 and \$1.59, respectively, per new common share of NEES, and estimated dividends of about \$1.15 and \$1.30 annually per share on the basis of these earnings levels.

From the foregoing, it will be seen

that the proposed treatment of the NOBO preferred stockholders does not compensate them fully on the basis of the first assumption made, namely, that there is no likelihood of dissolution and liquidation which would bring the \$50 liquidation preference into operation, nor does the proposed treatment limit them to compensation solely for the liquidating preference of \$50 per share. In view of all the relevant facts in the record, we believe that the likelihood of liquidation is such that the liquidation preference of the NOBO preferred stock must be given considerable weight in evaluating the preferred stockholders' claim and we are satisfied that the allocation of \$36 in cash and one share of new common stock accords such stockholders fair and equitable treatment.

The NOBO common stock has no par value. Recent dividend payments have aggregated \$3 per share per year from 1936 to 1940, inclusive, \$2.50 in 1941, \$1.80 in 1942, and \$1.45 per year in 1943 and 1944. The amended plan proposes to allocate to each common share of NOBO two shares of common stock of NEES. Table XIII above indicates that the asset value per books applicable to two shares of NEES common stock is \$43.06 as compared with asset value per books of \$38.79 per share of NOBO common stock as shown in Table XVII. These tables also show that adjusted asset values are \$22.40 for the two shares of NEES common stock compared with \$23.44 per share for the common stock of NOBO. On the

⁴⁸ Although MP&L has the requisite voting power, it is recognized that under certain circumstances courts have questioned the exercise of such voting power. See *Lebold v. Inland Steel Co.* (1941) 125 F2d 369, certi-

orari denied (1942) 316 US 675, 86 L ed 1749, 62 S Ct 1045; see discussion in *Re El Paso Electric Co. Holding Company Act Release No. 5499*, Dec. 13, 1944.

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basis of the 7-year average adjusted earnings, the two shares of new common stock would have earnings of \$2.90 per year compared with earnings of \$2.72 per year applicable to each share of NOBO common stock. On the basis of the estimated postwar earnings, the two shares of new common stock would have earnings of \$3.18 per year compared with earnings of \$2.94 per year applicable to each share of NOBO common stock. Based on expected dividends of \$1.15 and \$1.30, respectively, per share of new common stock, the NOBO common stockholders could expect dividends of \$2.30 and \$2.60, respectively, compared with recent dividends rang-

ing from \$1.45 to \$3 per year for each share of NOBO common stock. In view of all of the relevant facts in the record, we are satisfied that the allocation of two shares of NEES common stock to the public holders of each share of NOBO common stock accords them fair and equitable treatment.

Shareholders of MP&L

The consolidated capitalization and surplus of MP&L and its subsidiaries, actual as at December 31, 1944, and adjusted to reflect minimum liquidating value of preferred stock and underlying net assets, are shown in the following tabulation:

TABLE XIX

	Actual		Adjustment	Adjusted	
	Amount	%		Amount	%
Funded debt of subsidiaries	\$14,187,350	18.4	\$.....	\$14,187,350	25.0
Preferred stock of subsidiaries	2,020,572	2.6	.....	2,020,572	3.6
Minority interest in subsidiaries	8,371,285	10.9	(47,922) ⁶⁰	8,323,363	14.7
Subtotal	\$24,579,207	31.9	(\$47,922)	\$24,531,285	43.3
Advances payable by MP&L to NEPA ...	1,360,000	1.8	.....	1,360,000	2.4
Preferred stock of MP&L	28,140,615	36.4	2,585,134 ⁶⁰	30,725,749	54.3
Second preferred stock of MP&L	6,023,606	7.8	(6,023,606)	.....	....
Common equity of MP&L	17,021,043	22.1	(17,021,043)	.....	....
Total	\$77,124,471	100.0	(\$20,507,437) ⁶¹	\$56,617,034	100.0
Equity per preferred share	\$40.27		(\$16.10)	\$24.17	

Consolidated earnings of MP&L and subsidiaries are shown in the following tabulations:

⁶⁰ Adjustment of minority interest in NOBO common stock amounts to about \$15.34 per share (Table XVII, *supra*) for the 3,124 shares held by the public.

⁶⁰ This amount is the difference between adjusted equity and the preferred stock capital per books. The preferred stock has a preference in liquidation, including arrearages, of \$66,416,752 or \$52.25 per share for the 1,271,134 shares outstanding.

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⁶¹ This adjustment is determined as follows:

Excess cost of investments in shares of subsidiaries over the relative net assets shown by the books of subsidiaries at dates of acquisition	\$20,459,515
Adjustment for minority interests	47,922
Total	\$20,507,437

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TABLE XX

	Actual 1944	7-Year Average ⁸³	Estimated Postwar
Operating revenues	\$20,040,682	\$16,075,774	\$19,983,700
Operating expenses	17,189,626	12,768,368	16,598,000
Operating income	\$2,851,056	\$3,307,406	\$3,385,700
Nonoperating income	203,564	438,561	404,100
Gross income	\$3,054,620	\$3,745,967	\$3,789,800
Fixed charges	1,091,634	1,396,344 ⁸⁴	1,262,600
Net income	\$1,962,986	\$2,349,623	\$2,527,200
Preferred dividend requirements ⁸⁴	2,542,268	2,542,268	2,542,300
Balance	(\$579,282)	(\$192,645)	(\$15,100)
Ratios of gross income to:			
Fixed charges	2.80	2.68	3.00
Fixed charges and preferred dividend requirements ⁸⁴	0.84	0.95	1.00
Earnings per preferred share	\$1.54	\$1.85	\$1.99

The MP&L \$2 preferred stock has no par value, is redeemable at \$50 per share and is entitled to a preference in liquidation of \$50 per share plus accrued dividends and a preference of dividends of \$2 per share per year. Full dividend requirements were paid up to and including the year 1940, after which dividends amounted to \$1.80 in 1941, \$1.45 in 1942, and \$1.25 in both 1943 and 1944. Arrearages as at December 31, 1944, aggregated \$2.25 per share. The amended plan proposes to allocate to each share of MP&L preferred stock \$8 in cash and 1 1/10 shares of common stock of NEES.

As previously indicated in Table XIII, the asset value per books applicable to 1 1/10 shares of NEES common stock is \$23.68. This amount plus the \$8 in cash results in a figure of \$31.68 as compared with assets per books of \$40.27 per share

of MP&L preferred stock, as shown in Table XIX. Adjusted net assets applicable to 1 1/10 shares of NEES common stock amount to \$12.32. This amount plus the \$8 in cash results in a figure of \$20.32 as compared with adjusted net assets of \$24.17 per share of MP&L preferred stock.

To make an earnings test of the treatment to be accorded holders of the MP&L \$2 preferred stock, it is necessary to find the earnings equivalent of the \$8 cash payment proposed to be made to them. In this connection, Moore testified that he and his associates considered the earnings of MP&L, the then current dividend rate of approximately \$1.25 per share and the then current market price for the stock of approximately \$22 per share, and concluded that a 6 per cent rate was the appropriate measure of the earnings equivalent of the proposed

⁸³ The adjustment for depreciation accruals for MP&L and subsidiaries amounts to \$308,291 per year, which is the difference between the estimated postwar depreciation accruals of \$1,436,000 and reported depreciation accruals averaging \$1,127,709 per year.

⁸⁴ Minority interests included in fixed

charges have been reduced \$86,213 due to the adjustment for increased depreciation accruals.

⁸⁴ These amounts exclude \$594,924 of annual dividend requirements on the second preferred stock.

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cash payment.⁵⁵ On this basis the \$8 in cash would compensate the MP&L preferred stockholders to the extent of 48 cents per share per annum (6 per cent of such payment). On this assumption, the cash and the 1 1/10 shares of new common stock with 7-year average adjusted earnings of \$1.60 (\$1.45 per share) would have earnings equivalent to \$2.08 per annum compared with \$1.85 per share of MP&L preferred stock, and on the basis of estimated postwar earnings, the cash and the new common stock would have earnings equivalent to \$2.23 per annum compared with \$1.99 per share of MP&L preferred stock. Based on expected dividends of \$1.15 and \$1.30, respectively, per share of new common stock, the equivalent return on the cash and stock to be received would amount to \$1.75 and \$1.91, respectively, per share of MP &L preferred stock as compared with recent dividends ranging from \$1.25 to \$2 per share.

As previously stated there are several participants who have argued before us and filed briefs in opposition to certain aspects of the amended plan. We shall consider these various objections in connection with our consideration of the allocations with respect to which such objections were made and to the extent that such objections merit consideration and are

not otherwise covered in our general findings on the amended plan.

Counsel representing Charles H. Tenney and the Tenney interests, with holdings totaling 31,000 shares of MP&L \$2 preferred stock, contend that the amended plan is unfair and inequitable to the holders of all securities in the NEPA system except to the holders of the NEPA stocks, and is at least unfair and inequitable to the holders of the MP&L \$2 preferred stock. The alleged inequity is based upon the comparison of the assets, earnings, market value, and dividend records of the \$2 preferred stock of MP&L with those of the NEPA securities.

We have discussed the position of the MP&L \$2 preferred stock and have found that while the \$2 preferred stockholders will receive less on an asset basis, they will receive more earnings and dividends based on the management's estimates, than they could reasonably expect in their present position. As earning power, considered in the light of past and prospective earnings, is the principal criterion for measuring the fairness of a reorganization plan, we have placed more emphasis upon this factor in determining whether security holders affected under the amended plan are being accorded fair and equitable treatment, and it appears that the MP&L

⁵⁵ We do not accept the 6 per cent rate used by the applicants as necessarily being the appropriate measure of the earnings attributable to the proposed cash payment to the MP&L \$2 preferred stockholders. However, the use of a lower rate does not significantly affect the comparison of earnings and therefore the choice of a precise rate is not material to the conclusion. For example, if the earnings attributable to the proposed cash payment were measured at a 5 per cent rate or a 4 per cent rate, the earnings comparisons would be as follows:

	MP&L Pre- ferred	Cash and NEES Stock
Assuming 5% rate		
7-year average adjusted earnings	\$1.85	\$2.00
Estimated postwar earnings	\$1.99	\$2.15
Assuming 4% rate		
7-year average adjusted earnings	\$1.85	\$1.92
Estimated postwar earnings	\$1.99	\$2.07

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\$2 preferred stockholders are being accorded such treatment. Furthermore, the objection to the relative difference between the treatment of the NEPA securities and the treatment of the MP&L securities is a tenuous one for the reason that the \$2 preferred stock of MP&L is not directly comparable with any of the NEPA securities and the fairness of the treatment of the MP&L preferred stock can only be measured by the assets and earnings of MP&L. The assets of NEPA and its source of earnings are distinctly different from the assets of MP&L and its source of earnings. In this connection, it will be noted that although the MP&L \$2 preferred stock ranks ahead of all the NEPA securities with respect to assets and earnings of the subsidiaries of MP&L, such stock has no claim to the large amounts of assets and earnings flowing from NEPA's direct subsidiaries or from its other subholding companies. Also, the NEPA securities are in a position to secure the benefit of any refinancing in the entire NEPA holding company system.

[5, 6] Counsel for the Tenney interests have also objected to those allocations provided in the amended plan which partly compensate certain of the claims of preferred shareholders in cash. The injury claimed to flow from such distribution of cash is that it may result in an immediate taxable capital gain to the recipients, whereas those security holders being compensated in full with new common stock of NEES have a tax free exchange. As we have already indicated, applicants allocated the cash available after

the retirement of the debt securities to the better quality preferred shares. With the amount of cash available it was not feasible to retire all outstanding preferred shares by cash payments, nor do we believe that fairness so required. We observe no unfairness in the allocation of \$8 per share in cash to the MP&L preferred stockholders in comparison with the treatment accorded other preferred stock issues under the plan. In view of this, the fact that such treatment may have different tax effects upon different groups of security holders cannot be considered by itself as an element of unfairness. So long as full compensatory treatment is given to a class of security holders, such class of security holders may not complain that it is being satisfied partly in cash and partly in securities, while other security holders are receiving only securities or different amounts of cash and securities.⁶⁶

Objection has also been made by counsel for the Tenney interests to the proposal in the amended plan which provides a general reserve relating to investments by charging net income, before its transfer to earned surplus, at the rate of \$1,250,000 annually beginning in the sixth year and ending the thirtieth year after the effective date of the amended plan, as described later herein. Counsel claims that the purpose of the reserve is to provide for known and possible inflationary items in the property accounts, no part of which is attributable to the properties of the subsidiaries of MP&L. However, this is not the purpose of the reserve.

⁶⁶ See *Re New York, N. H. & H. R. Co.* (1945) 147 F2d 40, 46; *Re Standard Gas &*

E. Co. (1945) 61 PUR(NS) 175, 151 F2d 326.

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As will be shown later, the securities of the operating subsidiaries are to be carried on the books of NEES at amounts which the management considers to be "fair value," determined primarily by capitalizing the earning power of such subsidiaries. Although this will result in a reduction of the aggregate carrying values of securities, there will remain an excess of carrying values over underlying book values of approximately \$52,000,000, of which about \$13,500,000 will be attributable to the subsidiaries of MP&L.⁸⁷ The reserve of \$31,250,000 at the end of the thirtieth year plus the retention of earnings by the subsidiaries of NEES estimated by the management at about \$18,000,000 over the 30-year period would approximate the total excess over underlying book values. As we indicate later, we approve this proposed accounting treatment and we do not consider it in any way unfair to the preferred stockholders of MP&L or to any other security holders affected by the amended plan.

In view of all the relevant facts in the record, we are satisfied that the allocation of \$8 in cash and 1.1 shares of NEES common stock to the public holders of each share of MP&L preferred stock accords such stockholders fair and equitable treatment.

MP&L also has outstanding 297,462 shares of \$2 second preferred stock of which 5,513 shares are held by the public, the balance being held by NEPA. This stock is callable at \$50 per share and accrued dividends, but only after the retirement of the first preferred stock of MP&L. Subject to

the dividend rights of the first preferred, the second preferred has a cumulative preference over the MP&L common as to dividends at the rate of \$2 per share per annum. No dividends have been paid on the second preferred since 1934 and arrearages as of December 31, 1944, were \$20.50 per share. The amended plan proposes to give each share of second preferred stock 3/100 of a share of new common stock, or a total of 165 shares.

As previously shown, neither the net assets per books nor the adjusted net assets are sufficient to satisfy the liquidation preference of the MP&L first preferred stock and there have been no earnings applicable to the second preferred stock for a number of years. However, the public holders of MP&L second preferred stock are to receive new common stock with net assets per books of about \$3,552 or 65 cents for each share of stock presently held and with adjusted net assets of about \$1,848 or 34 cents per share. Similarly, the aggregate of 165 shares of NEES common stock, which are to be allocated to all public holders of MP&L second preferred stock, will have annual earnings of \$239 on the 7-year basis and \$262 on the postwar basis, which is equal to 4 cents and 5 cents, respectively, per share of MP&L second preferred stock.

With respect to the MP&L common stock, there are 1,742,617 shares outstanding, of which 166,333 shares are held by the public. The amended plan allocates 1/100 of a share of new common stock for each share of MP&L common stock held by the public or a total of 1,663 shares of new common stock. On this basis public

⁸⁷ See Appendix D attached hereto. [Omitted herein.]

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holders of the common stock of MP&L would receive new common stock with net assets per books of about \$35,819 or 22 cents per share and adjusted net assets of about \$18,629 or 11 cents per share of stock presently held. The 1,663 shares of NEES common stock would have 7-year average adjusted earnings of \$2,383 or one cent per share of MP&L common stock and estimated postwar earnings of \$2,638 or 2 cents per share of MP&L common stock.

When we consider the present rearrange on the MP&L first preferred stock, we think that it is extremely doubtful that recognition should be given the second preferred stock or

common stock either on the basis of assets or earnings. However, the earnings and assets applicable to the new common shares to be allocated to the public holders of MP&L second preferred and common stocks is so small in comparison with the estimated over-all earnings and assets applicable to all the new common stock to be issued (6,695,075 shares) that we feel that the proposed allocation of new common shares to these two classes of securities may be considered as de minimis. Furthermore, all during the period that hearings were held on both the original plan⁵⁸ and the amended plan, no security holder or other interested party objected to

TABLE XXI

	Actual		Adjustment	Adjusted	
	Amount	%		Amount	%
Funded debt of subsidiaries	\$32,246,900	41.6	\$.....	\$32,246,900	46.6
Preferred stock of subsidiaries	9,000,000	11.6	.....	9,000,000	13.0
Minority interest in subsidiaries	79,722	0.1	.....	79,722	0.1
Subtotal	\$41,326,622	53.3	\$.....	\$41,326,622	59.7
Note payable by RIPS to NEPA	1,225,000 ⁵⁹	1.6	.....	1,225,000 ⁵⁹	1.8
Preferred stock of RIPS	13,632,465	17.6	2,726,493 ⁶⁰	16,358,958	23.6
Class A stock of RIPS	4,440,425	5.7	3,633,075 ⁶¹	8,073,500	11.6
Common equity of RIPS	16,908,373	21.8	(14,628,111) ⁶²	2,280,262	3.3
Total	\$77,532,885	100.0	(\$8,268,543)	\$69,264,342	100.0

⁵⁸ The original plan also provided for a small distribution of new common stock to the MP&L second preferred and common stockholders.

⁵⁹ This amount includes advances.

⁶⁰ This adjustment is determined as follows:

Preference in liquidation .. \$16,358,958 or \$33.00 per share
Par value 13,632,465 or \$27.50 per share

Adjustment \$2,726,493 or \$5.50 per share

⁶¹ This adjustment is determined as follows:

Preference in liquidation ... \$8,073,500 or \$100 per share
Par value 4,440,425 or \$55.00 per share

Adjustment \$3,633,075 or \$45.00 per share

⁶² This adjustment is determined as follows:

Adjustment for preferred stock (\$2,726,493)

Adjustment for Class A stock (3,633,075)

Adjustment for plant adjustments, plant acquisition adjustments and organization expenses (10,636,864)

Subtotal (\$16,996,432)

Amount by which the relative net assets as shown by the books of subsidiaries at dates of acquisition of their shares exceeds the cost of investments in such shares 2,368,321

Net adjustment (14,628,111)

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TABLE XXII

	Actual 1944	7-Year Average ⁶³	Estimated Postwar
Operating revenues	\$27,568,908	\$17,298,093	\$20,959,000
Operating expenses	22,961,556	13,585,463	16,371,800
Operating income	\$4,607,352	\$3,712,630	\$4,587,200
Nonoperating income	68,862	180,559	190,500
Gross income	\$4,676,214	\$3,893,189	\$4,777,700
Fixed charges	2,261,672	1,734,127 ⁶⁴	1,723,800
Net income	\$2,414,542	\$2,159,062	\$3,053,900
Preferred dividends	991,452	991,452	991,500
Balance	\$1,423,090	\$1,167,610	\$2,062,400
Class A dividends ⁶⁵	322,940	322,940	322,900
Balance	\$1,100,150	\$844,670	\$1,739,500
Ratios of gross income to:			
Fixed charges	2.07	2.25	2.77
Fixed charges and preferred dividend re- quirements	1.44	1.43	1.76
Fixed charges, preferred and Class A dividend requirements	1.31	1.28	1.57

these proposed allocations to the public holders of MP&L second preferred stock and common stocks. Accordingly, in view of the foregoing considerations, we do not believe that the amended plan should be denied approval on this account.

Shareholders of RIPS

The consolidated capitalization and surplus of RIPS and its subsidiaries as at December 31, 1944, actual and adjusted to reflect underlying net assets and minimum liquidating values of preferred stocks are shown in Tables XXI and XXII, on pages 29 and 30.

The RIPS \$2 preferred stock has a par value of \$27.50 per share and a call price and liquidation preference of \$33 per share. It is entitled to preferential dividends of \$2 per share per

annum and since the formation of the company these dividends have been paid regularly and have been well covered by earnings. The amended plan proposes to allocate to each share of RIPS preferred stock held by the public \$16.50 in cash and one common share of NEES.

As indicated in Table XXI, the net assets per books and the adjusted net assets are well in excess of the call price and liquidation preference of \$33 per share for the RIPS preferred stock. We have concluded, however, as discussed later herein, that the claim of this preferred stock is limited to \$33 per share. As previously shown in Table XIII, the asset value per books applicable to one share of NEES common stock is \$21.53. This amount plus \$16.50 in cash results in a figure of \$38.03 as compared with

⁶³ The adjustment for depreciation accruals for RIPS and subsidiaries amounts to \$271,830 per year, which is the difference between the estimated postwar depreciation accruals of \$2,000,000 and reported depreciation accruals of \$1,728,170 per year.

⁶⁴ Minority interests included in fixed charges have been increased by \$923 due to adjustment for reduced depreciation accrual for United Electric Railways Company.

⁶⁵ It will be noted that NEPA owns 96 per cent of the Class A stock in addition to all of the common stock of RIPS.

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the call price and liquidation preference of \$33 per share of RIPS preferred stock. Adjusted net assets applicable to one share of NEES common stock amount to \$11.20. This amount plus the \$16.50 in cash results in a figure of \$27.70 as compared with the call price and liquidation preference of \$33 per share of RIPS preferred stock. From an earnings standpoint, the \$16.50 in cash compensates the RIPS preferred shareholders for half their total claim, including their claim to dividends, which would be equivalent to \$1 per share per year. On this basis, and assuming 7-year average adjusted earnings of \$1.45 and estimated postwar earnings of \$1.59 per common share of NEES, the equivalent earnings applicable to each share of RIPS preferred stock would be about \$2.45 and \$2.59, respectively, per year. Based on the management's estimate of expected dividends, the RIPS preferred stockholders could expect a return equivalent to \$2.15 and \$2.30, respectively, as compared with present preferred dividends of \$2 per share.

The RIPS Preferred Stockholders' Committee, one of the participants herein, contends that the call or liquidation price of \$33 per share does not set a ceiling on their claim under the reorganization and that the RIPS preferred stock has at times been selling above \$33 per share. It is further claimed that, if it were not for the limitation imposed by the call price, such stock would sell closer to a 5 per cent basis, or \$40 per share. While the

committee admits that the RIPS \$2 preferred stock can be called at \$33 per share plus accrued dividends, it contends that the RIPS preferred stockholders are not receiving all cash for their claim and, accordingly, such call or liquidation price does not govern, so that the RIPS \$2 preferred stock should receive a higher allocation if it is to receive the equitable equivalent of all the rights being relinquished. We are of the opinion that the call price of \$33 per share provides a maximum for the participation of the RIPS \$2 preferred stock⁶⁶ since NEPA, the holder of the junior equity securities of RIPS, has the legal right to retire the preferred stock at its redemption price apart from the impact of § 11 of the act and under present circumstances would in all likelihood call such stock for redemption.⁶⁷

[7] The committee further objects to the allocation of common stock of another holding company to satisfy part of the claims of the RIPS \$2 preferred stock, which stock is asserted to be of relatively high quality and has no dividend arrearages. We believe this argument neglects the fact that certain public utility holding companies are subject to a reshaping of their affairs in order to comply with the act. All those owning interests in the particular enterprise are necessarily affected by the action taken. The object of the whole process is to accomplish the public purpose with fairness and equity to those whose interests are affected. If a plan filed to

⁶⁶ A witness, Reis, testifying on behalf of the RIPS Committee, admitted that under present market conditions RIPS could refund the \$2 preferred stock, the benefit of which refinancing would accrue to NEPA.

⁶⁷ See *Re Buffalo, N. & E. Power Corp.* (1945) Holding Company Act Release No. 6083, 61 PUR(NS) 354; *Re American Power & Light Co.* (1945) Holding Company Act Release No. 6176, 61 PUR(NS) 129.

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comply with the requirements of § 11 of the act is found to be necessary to accomplish such purposes and accords to security holders the equitable equivalent of their rights there can be no legitimate cause for complaint if the plan cuts across the contract rights of the security holders affected.⁶⁸ In view of all the relevant facts in the record, we are satisfied that the allocation of \$16.50 in cash and one share of NEES common stock to the public holders of each share of RIPS preferred stock accords such stockholders fair and equitable treatment.

The RIPS Class A stock, of which only 3,241 shares are outstanding in the hands of the public, ranks junior to the RIPS \$2 preferred stock. The Class A stock has a par value of \$55 per share and a call price and liquidation preference of \$100 per share. It is entitled to a dividend preference over the junior security, the Class B stock, of \$4 per year, and to a limited participation with the Class B stock in dividends under certain circumstances.⁶⁹ The \$4 dividend on this security has always been paid since its issuance and is amply covered by earnings. The amended plan proposes to allocate to each Class A share 3½

shares of new common stock of NEES.

As indicated in Table XXI, the net assets per books and the adjusted net assets applicable to the Class A stock are in excess of the call price and liquidation preference of such stock. As previously indicated in Table XIII, the asset value per books applicable to 3½ shares of NEES common stock is \$80.74 and the adjusted net asset value applicable thereto is \$42 as compared with the present call price and liquidation preference of \$100 per share of RIPS Class A stock. From an earnings standpoint, however, assuming 7-year average adjusted earnings of \$1.45 per share and estimated postwar earnings of \$1.59 per share of NEES common stock, earnings applicable to 3½ shares of such stock would amount to \$5.44 and \$5.96, respectively. Based on the management's estimate, expected dividends on these bases would be \$4.31 and \$4.87, respectively, as compared with present Class A dividends of \$4 per share. In view of all the relevant facts in the record, we are satisfied that the allocation of 3½ shares of NEES common stock to the public holders of each share of RIPS Class

⁶⁸ See *Re Standard Gas & E. Co. (1944)* Holding Company Act Release No. 5430, 57 PUR(NS) 321; (1945) 58 PUR(NS) 278, 59 F Supp 274; (1945) 61 PUR(NS) 175, 151 F2d 326.

See also *Re United Light & P. Co. supra*, where the third circuit court of appeals stated as follows with respect to the preferred stock allocations being considered therein:

"Though the preferred stockholders of Power have contract rights which entitle them to the payment of \$100 a share and accumulated dividends on liquidation or dissolution of Power, those rights, at least in the absence of insolvency, have not matured and cannot mature for the reason that the congressional mandate contained in the act strikes across

their contract rights and the maturities embraced by them, severing them. Though severed, they are not lost for, as we have seen, they must be transmuted as nearly as can be into their equitable equivalents."

⁶⁹ After payment in any year of \$1,701,125 or 75 cents per share on the Class B stock, the Class A stock is entitled to an additional \$161,470 or \$2 per share (noncumulative) before further dividends are paid on any junior stock. Actual dividends paid on the Class B stock during the past ten years have ranged from about \$567,000 to about \$1,270,000 per year and averaged \$961,703 per year or 56.5 per cent of the amount at which the participating provision becomes operative.

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A stock accords such stockholders fair and equitable treatment.

Shareholders of MUA

The consolidated capitalization and surplus of MUA and its subsidiaries

as at December 31, 1944, actual and adjusted to reflect underlying net assets and minimum liquidating preference of preferred stock are shown in the following tabulation:

TABLE XXIII

	Actual		Adjustment	Adjusted	
	Amount	%		Amount	%
Minority interest in subsidiaries	\$159,013	0.4	\$.....	\$159,013	0.5
2½% bank loan of MUA	3,000,000	8.3	.....	3,000,000	9.8
5% preferred stock of MUA	28,954,500	80.2	(1,346,249)	27,608,251 ⁷⁰	89.7
Common equity of MUA	4,009,294	11.1	(4,009,294)	.....	....
Total	\$36,122,807	100.0	(\$5,355,543) ⁷¹	\$30,767,264	100.0
Equity per preferred share	\$56.92		(\$9.24)	\$47.68	

Earnings of MUA and subsidiaries on a consolidated basis are shown as follows:

TABLE XXIV

	Actual 1944	7-Year Average ⁷²	Estimated Postwar
Operating revenues	\$13,376,378	\$10,290,889	\$12,534,400
Operating expenses	12,081,141	8,903,359	11,008,400
Operating income	\$1,295,237	\$1,387,530	\$1,526,000
Nonoperating income	284,674	483,106	503,000
Gross income	\$1,579,911	\$1,870,636	\$2,029,000
Fixed charges	133,119	319,548 ⁷³	116,600
Net income	\$1,446,792	\$1,551,088	\$1,912,400
Preferred dividend requirements	1,447,725	1,447,725	1,447,700
Balance	(\$933)	\$103,363	\$464,700
Ratios of gross income to:			
Fixed charges	11.87	5.85	17.40
Fixed charges and preferred dividend requirements	1.00	1.06	1.30
Earnings per common share ⁷⁴	\$0.00	\$0.06	\$0.25

As at December 31, 1944, MUA had outstanding a \$3,000,000 unsecured note payable to The First Na-

tional Bank of Boston, bearing interest at 2½ per cent per annum, payable monthly, dated February 9, 1942, and

⁷⁰ The 5 per cent preferred stock has a preference in liquidation of \$34,745,400 or \$60 per share for the 579,090 shares outstanding.

⁷¹ This adjustment represents the excess cost of investments (net of reserve) in shares of subsidiaries over the relative net assets shown by the books of subsidiaries at dates of acquisition.

⁷² The adjustment for depreciation accruals for MUA and subsidiaries amounts to \$63,950 per year, which is the difference between the

estimated postwar depreciation accruals of \$759,000 and reported depreciation accruals averaging \$695,050 per year.

⁷³ Minority interests included in fixed charges have been decreased by \$609 due to adjustment for increased depreciation accruals.

⁷⁴ Does not give effect to preferred stock participating provisions, which would reduce the amount of earnings available for dividends on the common shares on these three bases to \$0.00, \$0.05, and \$0.22, respectively.

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maturing February 9, 1945. In November, 1944, MUA filed a declaration with the Commission requesting permission to issue a 2½ per cent unsecured note in the principal amount of \$3,000,000, dated February 9, 1945 and due February 9, 1948, payable to the First National Bank of Boston, in order to redeem the 2½ per cent unsecured note. The Commission permitted the declaration to become effective on December 29, 1944.⁷⁵ The 2½ per cent unsecured note now outstanding provides that all or any part of the principal amount plus accrued interest may be paid at the election of MUA at any time upon not less than thirty days' prior written notice. Furthermore, the MUA note, like the NOBO notes previously discussed above, permits prepayment without penalty or premium if effectuated in connection with a § 11 proceeding under the act. Since the amended plan provides for the discharge of MUA's 2½ per cent unsecured note by cash payment as above specified, there is obviously no unfairness to the holder thereof.

There are outstanding in the hands of the public 562,671 shares of MUA preferred stock. This stock has no par value but has an expressed value of \$50 per share. It is noncallable and is entitled to a preference in liquidation of \$60 per share plus accrued dividends and to a preference of dividends at the rate of 5 per cent on its expressed value of \$50 per share, or

\$2.50 per year, and it is also entitled to a limited participation in dividends if any dividends are paid on the MUA common shares.⁷⁶ The full \$2.50 dividend has been paid every year since the formation of the company although it was not earned on a corporate or consolidated basis in 1943 or 1944. The amended plan proposes to allocate to each share of MUA preferred stock \$16.50 in cash and 1½ shares of NEES common stock.

As shown in Table XXIII, the net assets per books and the adjusted net assets per share of MUA preferred stock are less than the liquidation preference of such stock. Table XIII indicates that the asset value per books applicable to 1 and ½ shares of NEES common stock amounts to \$32.30. This amount plus the \$16.50 in cash results in a figure of \$48.80 as compared with assets per books of \$56.92 per share of MUA preferred stock. Adjusted net assets applicable to 1½ shares of NEES common stock amount to \$16.80. This amount plus the \$16.50 in cash results in a figure of \$33.30 as compared with adjusted net assets of \$47.68 per share of MUA preferred stock.

As in the case of the MP&L preferred stock, discussed above, to make an earnings test of the treatment to be accorded holders of the MUA preferred stock, it is necessary to find the earnings equivalent of the \$16.50 cash payment proposed to be made to them. In this connection, Moore testified

of the expressed value, or \$3.50 per share in any one year, including the regular cumulative dividend of \$2.50 per year. The record indicates that this provision in MUA's charter has never been operative and that it is possible for it to become operative only under the most favorable business conditions.

⁷⁵ Re Massachusetts Utilities Associates Holding Company Act Release No. 5531, Dec. 29, 1944.

⁷⁶ This participation entitled the MUA preferred shareholder to receive an additional payment per share equal to one-half the amount declared and paid on each common share until the total amount equals 7 per cent

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that he and his associates considered the earnings of MUA, the then current dividend rate of approximately \$2.50 per share and the then current market price for the stock of from \$36.25 to \$40 per share, and concluded that a 6 per cent rate was the appropriate measure of the earnings equivalent of the proposed cash payment.⁷⁷ On this basis the \$16.50 in cash would compensate the MUA preferred stockholders to the extent of 99 cents per share per annum (6 per cent of such payment). On this assumption, the cash and the 1½ shares of new common stock with 7-year average adjusted earnings of \$2.18 (\$1.45 per share) and estimated postwar earnings of \$2.39 (\$1.59 per share) would earn the equivalent of about \$3.17 and \$3.38 per share, respectively. Based on the management's estimate of expected dividends of \$1.15 and \$1.30 per share of NEES common stock at these earnings levels, the holder of each share of MUA preferred stock could expect an equivalent return of \$2.72 and \$2.94, respectively, compared with their present dividend preference of \$2.50 per year. In view of all the relevant facts in the record we are satisfied that the allocation of \$16.50 in cash and 1½ shares of NEES common

stock to the public holders of each share of MUA preferred stock accords such stockholders fair and equitable treatment.

As previously indicated, the MUA common shares are represented by common voting trust certificates. There are outstanding certificates representing 1,780,249 common shares, of which 1,358,091 shares are owned by NEPA and 422,158 shares by the public. The shares have a par value of \$1 each. No dividends have been paid on this class of stock. The amended plan proposes to allocate to the owners of each MUA common share 15/100 of a share of common stock of NEES.

As indicated in Table XXIII, there are no net assets, per books or adjusted, applicable to the MUA common stock after subtracting the liquidation preference of the MUA preferred stock. However, the net assets per books applicable to the 15/100 of a share of new common stock to be allocated amount to \$3.23 and the adjusted net assets applicable thereto amount to \$1.68. Based on 7-year average adjusted earnings of \$1.45 per share and estimated postwar earnings of \$1.59 per share of NEES common stock, the equivalent earnings applicable to each share of MUA common

⁷⁷ As we have indicated heretofore in connection with the MP&L \$2 preferred stock, we do not accept the 6 per cent rate used by the applicants as necessarily being the appropriate measure of the earnings attributable to the proposed cash payment to the MUA preferred stockholders. However, the use of a lower rate does not significantly affect the comparison of earnings and therefore the choice of a precise rate is not material to the conclusion. For example, if the earnings attributable to the proposed cash payment were measured at a 5 per cent rate or a 4 per cent rate, the earnings comparisons would be as follows:

	MUA Pre- ferred	Cash and NEES Stock
Assuming 5% rate		
7-year average adjusted earnings	\$2.50	\$3.00
Estimated postwar earnings	2.50	\$3.21
Assuming 4% rate		
7-year average adjusted earnings	\$2.50	\$2.84
Estimated postwar earnings	\$2.50	\$3.05

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stock (on the basis of 15/100 of a share of new common stock), would be about 22 cents and 24 cents, respectively, per year compared with the actual and estimated earnings of 6 cents and 25 cents, respectively, shown in Table XXIV above. Based on estimated dividends of \$1.15 and \$1.30, respectively, per share of NEES common stock, the holders of each share of MUA common stock could expect dividends of approximately 17 cents and 20 cents, respectively, per year. In view of all the relevant facts in the record we are satisfied that the alloca-

tion of 15/100 of a share of NEES common stock to the public owners of each share of MUA common stock accords such stockholders fair and equitable treatment.

Shareholders of NEPA

The consolidated capitalization and surplus of NEPA and its subsidiaries including MUA and its subsidiaries (which are not consolidated for accounting purposes) as at December 31, 1944, and adjusted to reflect underlying net assets and minimum liquidating preferences of preferred stocks are shown in the following tabulation:

TABLE XXV

	Actual			Adjusted	
	Amount	%	Adjustment	Amount	%
Funded debt of subsidiaries	\$96,630,250	25.2	\$.....	\$96,630,250	34.2
Preferred stocks of subsidiaries	90,477,588	23.6	(4,168,153)	86,309,435 ¹	30.5
Minority interests in subsidiaries	13,514,669	3.5	(1,163,994) ²	12,350,675	4.3
Subtotal	\$200,622,507	52.3	(\$5,332,147)	\$195,290,360	69.0
Funded debt of NEPA	44,700,500	11.7	.....	44,700,500	15.8
Preferred stocks of NEPA	66,166,116	17.3	(23,326,021)	42,840,095 ²	15.2
Common equity of NEPA	71,207,762	18.7	(71,207,762)	.....	.....
Total	\$382,696,885	100.0	(\$99,865,930) ²	(\$282,830,955)	100.0
Equity per 6% preferred share	\$207.20		(\$142.48)	\$64.72	
Equity per \$2 preferred share	\$69.10		(\$47.86)	\$21.24	
Equity per common share	\$66.74 ²		(\$66.74)	\$0.00	

¹ This amount is determined as follows:

New England Power Company—80,140 shares @ \$100	\$8,014,000
Connecticut River Power Company—4,703 shares @ \$100	470,300
Gardner Electric Light Company—2,413 shares @ \$100	241,300
Green Mountain—adjustment exceeds preferred and common equity	0
NOBO—39,814½ shares @ \$50	1,990,712
Narragansett—180,000 shares @ \$50	9,000,000
RIPS—493,942 shares @ \$33	16,300,086
RIPS (Class A)—3,241 shares @ \$100	324,100
MP&L—957,453 shares @ \$24.17 (Table XIX, <i>supra</i>)	23,143,468
MUA—562,671 shares @ \$47.68 (Table XXIII, <i>supra</i>)	26,825,469
Total	\$86,309,435

² This adjustment is determined as follows:

NOBO—3,124 shares @ \$15.34 (Table XVII, <i>supra</i>)	\$47,922
MP&L—adjustment of minority interest of MP&L arising in consolidation with NEPA	497,533
MUA—adjustment of minority interest of MUA arising in consolidation with NEPA	618,539
Total	\$1,163,994

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³ This account represents the difference between the adjusted equity and the preferred stock capital per books. Full liquidation preferences, including dividend arrearages, aggregated \$5,127,818 as follows:

	Amount	Per Share
6% preferred stock	\$74,394,370	\$113 $\frac{1}{2}$
\$2 preferred stock	733,448	37 $\frac{1}{2}$
Total	<u>\$75,127,818</u>	

⁴ This adjustment is determined as follows:

Excess cost of investments in shares of subsidiaries (including MUA and its subsidiaries) over the relative net assets shown by the books of subsidiaries at dates of acquisition	\$81,950,054
Adjustment for plant adjustments, plant acquisition adjustments and organization expenses	16,751,882
Adjustment for minority interests as per footnote 2 above	1,163,994
Total adjustment	<u>\$99,865,930</u>

If underlying net worth of stocks of the direct subsidiaries was further adjusted by \$14,446,988 of possible upward revaluations and intra-system profits, the adjusted net assets would be equivalent to \$42.90 per share of \$6 preferred stock and \$14.30 per share of \$2 preferred stock.

⁵ This amount is determined after subtracting the preferred stock liquidating values, including arrearages.

It should be noted from Table XXV that the adjusted assets applicable to all the securities of NEPA aggregate approximately \$87,500,000, of which approximately \$43,000,000 are applicable to the public holders of preferred stock of NEPA. Approximately \$60,000,000 of the adjusted net assets of NEPA and about \$5,000,000 of the 7-year average adjusted earnings applicable to NEPA are

attributable to its investments in direct operated subsidiaries whose assets and earnings are presently not subject to the claims of any of the public stockholders of the subholding companies.

Consolidated earnings of NEPA and its subsidiaries including MUA (which is normally not consolidated for accounting purposes) are shown in the following table:

TABLE XXVI

	Actual 1944	7-Year Average ⁷⁸	Estimated Postwar ⁸⁰
Operating revenues	\$85,920,156	\$62,570,881	\$77,861,000
Operating expenses	69,342,597	45,594,445	60,303,000
Operating income	\$16,577,559	\$16,976,436	\$17,558,000
Nonoperating income	885,198	1,676,812	1,639,000
Gross income	\$17,462,757	\$18,653,248	\$19,197,000
Fixed charges	13,367,805	14,185,673 ⁷⁹	12,514,000 ⁸¹
Net income	\$4,094,952	\$4,467,575	\$6,683,000
Preferred dividend requirements	3,977,518	3,977,518	3,978,000
Balance	\$117,434	\$490,057	\$2,705,000

⁷⁸ The adjustment for depreciation accruals for NEPA and subsidiaries amounts to \$668,364 per year, which is the difference between the estimated postwar depreciation accruals of \$6,350,000 and reported depreciation accruals averaging \$5,681,636 per year.

⁷⁹ Minority interests included in fixed charges have been reduced \$97,401 due to

increased depreciation accruals.

⁸⁰ This statement gives effect to the refinancing of the NEPA debentures on a 4 per cent basis. Moore testified that, absent the amended plan, NEPA could refinance its debentures on this basis or better.

⁸¹ This figure excludes that portion of the MP&L dividend requirements not earned.

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Ratios of gross income to:			
Fixed charges	1.31	1.31	1.53
Fixed charges and preferred dividend requirements	1.01	1.03	1.16
Earnings per common share	\$0.13	\$0.53	\$2.90

As at December 31, 1944, NEPA had outstanding \$21,619,000 principal amount of 5 per cent debentures due April 1, 1948, and \$23,081,500 principal amount of 5½ per cent debentures due December 1, 1954, or an aggregate debt of \$44,700,500. The debentures are redeemable in whole or in part on any interest date on sixty days' notice. The 5 per cent and 5½ per cent debentures are now redeemable at 100½ and 101, respectively. The amended plan proposes to pay the debenture holders an amount equal to \$100.50 for the 5 per cent debentures and \$101 for the 5½ per cent debentures.⁸²

It is clear that the NEPA debentures must be retired at this time in order to effectuate compliance with the standards of § 11(b)(2). To the extent that the senior security holders are to receive common stock of NEES which would be junior to the NEPA debentures, the earnings and asset position of such debentures would be greatly improved if they were to remain outstanding. This improvement would be in the nature of a wind-fall to the debenture holders, and to permit these debentures to remain outstanding after the reorganization

would be unfair and inequitable to all the security holders of NEPA and its subholding companies who are participating under the amended plan.

On the other hand, the record indicates that the NEPA debentures have been selling at market prices which are above their call prices. Moore stated that the threat of redemption of the debentures has limited their market prices, and that, absent the imminence of reorganization of the NEPA system, the debentures would have been called for redemption and replaced by debt carrying a lower interest rate.⁸³ Although many other elements are involved, it may be said that the present program constitutes a refinancing of the debentures of NEPA to take advantage of current money rates. In view of the foregoing considerations and of the asset and earnings data in the record, we find the proposed cash payments in amounts equal to \$100.50 and \$101 to the 5 per cent and 5½ per cent debenture holders, respectively, which amounts are equivalent to their call prices, accord fair and equitable treatment to the holders of such debentures.

NEPA had outstanding, as at December 31, 1944, 656,457 shares of

⁸² As previously noted the amended plan provides that the proceeds of the funded debt to be issued by NEES will be used to discharge the funded debt by NEPA, MUA, and NOBO or any indebtedness incurred to refund such debt. This provision of the amended plan would permit the refunding of the NEPA debentures during the course of this proceeding if it became advantageous to do so. We find no unfairness in this provision. Moreover, any such refunding would necessarily come before us and would have to meet

the applicable statutory standards of the act and be consistent with the provisions of the amended plan.

⁸³ In support of this statement, Moore testified that the management investigated the possibility of refunding the debentures on the basis of the present corporate and capital structure of NEPA and was advised that these securities could be refunded at an interest rate under 4 per cent as compared with their present rates of 5 per cent and 5½ per cent.

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6 per cent preferred stock⁸⁴ and 19,388 shares of \$2 dividend preferred stock. The two series of preferred stock rank *pari passu* and, with minor exceptions,⁸⁵ have the same rights, limitations and preferences *pro rata*. These stocks are entitled to respective preferential dividends of \$6 and \$2 per year, and preferences in liquidation of \$100 and \$33 $\frac{1}{3}$, respectively, per share plus accrued dividends. Table XXVI above indicates that the preferred dividend requirements have been earned on a consolidated basis. However, full dividends have not always been paid so that arrearages on the 6 per cent preferred stock aggregated \$8,862,170, or \$13.50 per share, and arrearages on the \$2 dividend preferred stock aggregated \$87,246, or \$4.50 per share, as at December 31, 1944.⁸⁶ The liquidation preferences as at that date were therefore \$113.50 and \$37.83 $\frac{1}{3}$, respectively, per share. The amended plan proposes to allocate to each 6 per cent preferred stock 5.4 shares of new common stock, and proportionately 1.8 shares of new common stock to the \$2 dividend preferred stock.⁸⁷

As previously indicated in Table

XIII, the asset value per books applicable to 5.4 shares of NEES common stock is \$116.26 compared with assets per books as shown in Table XXV in excess of the \$113.50 per share preference in liquidation of the NEPA 6 per cent preferred stock. Similarly the asset value per books applicable to 1.8 shares of NEES common stock is \$38.75 compared with assets per books in excess of the \$37.83 $\frac{1}{3}$ per share preference in liquidation of the NEPA \$2 preferred stock. Adjusted net assets applicable to 5.4 shares of NEES common stock amount to \$60.48 compared with adjusted net assets of \$64.72 per share of NEPA 6 per cent preferred stock. Likewise, adjusted net assets applicable to 1.8 shares of NEES common stock amount to \$20.16 compared with adjusted net assets of \$21.24 per share of NEPA \$2 preferred stock.

With 7-year average adjusted earnings of \$1.45 per share and estimated postwar earnings of \$1.59 per share, the 5.4 shares of NEES common stock to be received by the holders of each share of NEPA 6 per cent preferred stock would have earnings

⁸⁴ MUA owns 1,000 shares of the 6 per cent preferred and like other intersystem holdings, these shares will be eliminated in the reorganization, leaving 655,457 shares of 6 per cent preferred to be considered under the amended plan.

⁸⁵ The \$2 dividend preferred has no par value whereas the 6 per cent preferred has a \$100 par value; the \$2 dividend stock is callable at \$37.50 whereas the 6 per cent preferred is callable at \$105.

⁸⁶ Preferred dividend requirements have been paid in full through 1934 after which payments were made as follows:

	Dividend Payments		Annual Arrears	
	6% pfd.	\$2 pfd.	6% pfd.	\$2 pfd.
1935	\$4.00	\$1.33 $\frac{1}{3}$	\$2.00	\$0.66 $\frac{2}{3}$
1936	5.00	1.66 $\frac{2}{3}$	1.00	0.33 $\frac{1}{3}$
1937	6.00	2.00	..	..
1938	4.00	1.33 $\frac{1}{3}$	2.00	0.66 $\frac{2}{3}$
1939	5.50	1.83 $\frac{1}{3}$	0.50	0.16 $\frac{2}{3}$
1940	6.00	2.00	..	..
1941	4.00	1.33 $\frac{1}{3}$	2.00	0.66 $\frac{2}{3}$
1942	4.00	1.33 $\frac{1}{3}$	2.00	0.66 $\frac{2}{3}$
1943	4.00	1.33 $\frac{1}{3}$	2.00	0.66 $\frac{2}{3}$
1944	4.00	1.33 $\frac{1}{3}$	2.00	0.66 $\frac{2}{3}$
Total .....	..	..	\$13.50	\$4.50

⁸⁷ The record shows that the applicants considered three \$2 dividend preferred shares as equivalent to one 6 per cent preferred share and made their proposed allocations on this three-for-one basis.

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of \$7.83 and \$8.59, respectively, and the 1.8 shares of NEES common stock to be received by the holders of each share of NEPA \$2 preferred stock would have earnings of \$2.61 and \$2.86, respectively. Based on the management's estimate of expected dividends and based on 7-year average adjusted earnings, the holders of each share of NEPA 6 per cent preferred stock could expect dividends of \$6.21 per year compared with recent dividend payments ranging from \$4 to \$6 per year. Similarly, the holders of each share of NEPA \$2 preferred stock could expect dividends of \$2.07 per year compared with recent dividend payments ranging from \$1.33½ to \$2 per year. Based on the management's estimate of normal postwar earnings, expected dividends would be \$7.02 per year for each share of NEPA 6 per cent preferred stock and \$2.34 per year for each share of NEPA \$2 preferred stock compared with preferred dividend requirements of \$6 and \$2, respectively.

Counsel representing Albert W. Rice and Whiting, Weeks & Stubbs has made certain contentions relative to the participation to be accorded the NEPA preferred shares. Rice is the owner of 12,600 shares of NEPA 6 per cent preferred stock and the firm of Whiting, Weeks & Stubbs claims to have an interest because it sold such shares to its customers. The principal argument was based on the treatment of the NEPA preferred shares in relation to the treatment of the other

classes of stock in the NEPA system. In our consideration of a similar contention made by counsel representing holders of the MP&L \$2 preferred stock, we indicated that a comparison of the treatment accorded securities of different holding companies was not appropriate under the circumstances. However, with respect to the comparison of the treatment of the NEPA preferred stock with that of the NEPA common stock, both of which have the same underlying assets and sources of earnings, there is ground for discussion of the point raised by these participants.

We have already set forth the assets and earnings applicable to the NEPA preferred stock at present as compared with the assets and earnings applicable to the NEES common stock proposed to be allocated thereto. With respect to compensation for the arrearages of the NEPA preferred stock, it should be pointed out that on the basis of estimated postwar earnings, the NEPA preferred stock arrearages, aggregating \$8,949,416 as at December 31, 1944, could be paid in a little over three years if all consolidated net income were paid out in dividends.⁸⁸ Furthermore, if these arrearages were paid immediately⁸⁹ and such cash payment earned the same return as the NEPA preferred stocks, the claim to earnings would be \$6.81 for the 6 per cent preferred stock and \$2.27 for the \$2 preferred stock compared with estimated postwar earnings of \$8.59 and \$2.86, respectively, on the new com-

⁸⁸ Counsel for these participants admitted at oral argument that the postwar earnings estimate "gives every reasonable prospect that they would be paid in the near future were there no reorganization."

⁸⁹ This is the best assumption for the pre-
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ferred stockholders, since any delay in dividend payments would inure to the benefit of the common stockholders who would have the use of the preferred stockholders' money at no cost.

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mon stock to be received in exchange therefor. It appears from the record that the applicants have given consideration to the arrearages of the NEPA preferred stocks and that their claims have been adequately compensated and, therefore, we find that this objection is without merit.

In view of all the relevant facts in the record, we are satisfied that the allocation of 5.4 shares of new common stock to the public holders of each share of NEPA 6 per cent preferred stock and the allocation of 1.8 shares of new common stock to the public holders of each share of NEPA's \$2 dividend preferred stock accords such stockholders fair and equitable treatment.

The NEPA common stock has no par value and there are outstanding 932,604 shares of which 821,780 shares are owned by IHES.⁹⁰ No dividends have been paid on this stock since 1934. The amended plan proposes to allocate to each share of NEPA common stock 65/100 of a share of new common stock.

As previously indicated in Table XIII, the asset value per books applicable to 65/100 shares of NEES common stock is \$13.99 as compared with net assets per books of \$66.74 per share of NEPA common stock after subtracting the preferred stock liquidating value, including arrearages. Adjusted net assets applicable to 65/100 of a share of NEES common stock amount to \$7.28 while there are

no adjusted net assets applicable to the NEPA common stock. Based on 7-year average adjusted earnings of \$1.45 per share and estimated post-war earnings of \$1.59 per share of NEES common stock, the earnings applicable to 65/100 of a share amount to 94 cents and \$1.03, respectively, compared with earnings of 53 cents and \$2.90, respectively, applicable to the presently outstanding NEPA common stock as shown in Table XXVI above. Based on these earnings levels, estimated dividends would be 75 cents and 85 cents, respectively, per share of NEPA common stock.

In view of all the relevant facts in the record, we are satisfied that the allocation of 65/100 of a share of new common stock to the public holders of each share of NEPA common stock accords such stockholders fair and equitable treatment.

Summary of Allocations

[8] As previously indicated, in order to find the plan fair and equitable all that is required is that each class of security holders is to receive the equitable equivalent of the claims surrendered,⁹¹ and neither the reasonably foreseeable future earnings nor the allocations based thereon lend themselves to determination with mathematical certitude.⁹²

As heretofore noted, the consummation of the amended plan will increase consolidated net income of the system. This is primarily a result of

⁹⁰ All the NEPA common shares are treated as being held by the public as IHES is not being reorganized under this amended plan. Therefore, IHES is to receive shares of new common stock in exchange for its holdings on the same basis as the public holders of NEPA common.

⁹¹ *Group of Institutional Investors v. Chicago, M. St. P. & P. R. Co.* (1943) 318 US 523, 87 L ed 959, 63 S Ct 727.

⁹² See *Consolidated Rock Products Co. v. Du Bois* (1941) 312 US 510, 526, 85 L ed 982, 61 S Ct 675.

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the substitution of the proposed debt of NEES with a relatively low fixed interest requirement for the presently outstanding NEPA debentures and a portion of the subholding company preferred stocks, in addition to savings in corporate expenses of the sub-

holding companies. These benefits are to accrue to all publicly held securities of NEPA and its subholding companies as indicated by the 7-year average earnings shown in the following table:

TABLE XXVII

	Shares Owned by Public	7-Year Average Earnings ⁹³			
		Actual		Pro Forma ⁹⁴	
		Amount	Per Share	Amount	Per Share
NOBO Preferred	39,814	\$119,442 ⁹⁵	\$3.00 ⁹⁶	\$143,735	\$3.61
NOBO Common	3,124	8,491	2.72	9,061	2.90
MP&L Preferred	957,453	1,769,804	1.85	1,986,897	2.08
MP&L 2nd Preferred	5,513	.....	...	237	0.04
MP&L Common	166,333	.....	...	2,383	0.01
RIPS Preferred	493,942	987,884 ⁹⁵	2.00 ⁹⁶	1,210,242	2.45
RIPS Class A	3,241	12,964 ⁹⁵	4.00 ⁹⁶	17,625	5.44
MUA Preferred	562,671	1,406,678 ⁹⁵	2.50 ⁹⁶	1,781,000	3.17
MUA Common	422,158	23,274	0.06	91,832	0.22
NEPA Preferred	661,920 ⁹⁵	3,971,520 ⁹⁵	6.00 ⁹⁶	5,183,443	7.83
NEPA Common	932,604	490,055	0.53	879,082	0.94
Total		\$8,790,112	\$...	\$11,305,537	\$...

Estimated postwar earnings applicable to each class of publicly held securities are shown below:

TABLE XXVIII

	Shares Owned by Public	Estimated Postwar Earnings			
		Actual		Pro Forma ⁹⁷	
		Amount	Per Share	Amount	Per Share
NOBO Preferred	39,814	\$119,442 ⁹⁸	\$3.00 ⁹⁸	\$149,153	\$3.75
NOBO Common	3,124	9,180	2.94	9,911	3.18
MP&L Preferred	957,453	1,903,560	1.99	2,130,199	2.23
MP&L 2nd Preferred	5,513	.....	...	262	0.05
MP&L Common	166,333	.....	...	2,638	0.02
RIPS Preferred	493,942	987,884 ⁹⁸	2.00 ⁹⁸	1,272,513	2.59
RIPS Class A	3,241	12,964 ⁹⁸	4.00 ⁹⁸	19,279	5.95
MUA Preferred	562,671	1,406,678 ⁹⁸	2.50 ⁹⁸	1,895,841	3.38
MUA Common	422,158	104,623	0.25	100,448	0.24
NEPA Preferred	661,920 ⁹⁹	3,971,520 ⁹⁸	6.00 ⁹⁸	5,669,808	8.59
NEPA Common	932,604	2,705,000 ¹⁰⁰	2.90	961,571	1.03
Total		\$11,220,851	\$...	\$12,211,623	\$...

⁹³ These earnings are adjusted for depreciation accruals, as previously discussed.

⁹⁴ These amounts are based on pro forma earnings of \$1.45 per share of NEES common stock and include certain assumptions used by the applicants as to the earnings attributable to the cash allocated to certain preferred shares as previously discussed.

⁹⁵ These figures represent the limited claim to earnings of the respective preferred shares exclusive of arrearages or participating provision.

⁹⁶ This figure represents the number of 6 per cent preferred shares and one-third the number of \$2 preferred shares outstanding.

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⁹⁷ These amounts are based on pro forma earnings of \$1.59 per share of NEES common stock and include certain assumptions used by the applicants as to the earnings attributable to the cash allocated to certain preferred shares as previously discussed.

⁹⁸ These figures represent the limited claim to earnings of the respective preferred shares exclusive of arrearages or participating provision.

⁹⁹ This figure represents the number of 6 per cent preferred shares and one-third the number of \$2 preferred shares outstanding.

¹⁰⁰ This assumes refinancing of NEPA debentures on a 4 per cent basis.

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It will be observed from the foregoing two tables that all classes of security holders are to receive a portion of the increased earnings under the amended plan, except the MUA and NEPA common stocks on the estimated postwar basis. While the decrease in earnings applicable to the MUA common stock on the estimated postwar basis is negligible, the increased earnings on the 7-year average basis is significant and we feel that, earnings-wise, the MUA common stockholders are being treated fairly.¹⁰¹ With respect to the NEPA common stock, earnings on the 7-year average basis increase from \$490,055 actual to \$879,082 pro forma. As to the estimated postwar basis, it should

be pointed out that actual earnings do not reflect the high leverage position with its attendant risks, whereas under the amended plan the new common stock to be received, though showing lower earnings, will be of substantially better quality. Thus the apparent disadvantage shown in Table XXVIII is offset by improvement in quality.

Actual 7-year average dividend payments in the publicly held preferred shares of NEPA and its subholding companies, together with pro forma dividends based on a level of earnings equivalent to the adjusted 7-year average earnings, are shown in the following table:

TABLE XXIX

	Shares Owned by Public	7-Year Average Dividends			
		Actual		Pro Forma ¹⁰²	
		Amount	Per Share	Amount	Per Share
NOBO Preferred	39,814	\$119,442	\$3.00	\$131,636	\$3.31
MP&L Preferred	957,453	1,872,261	1.96	1,666,840	1.74
MP&L 2nd Preferred	5,513	1,464	0.27	190	0.03
RIPS Preferred	493,942	987,884	2.00	1,055,198	2.15
RIPS Class A	3,241	12,964	4.00	13,969	4.31
MUA Preferred	562,671	1,406,678	2.50	1,524,512	2.72
NEPA Preferred	661,920 ¹⁰³	3,456,692	5.22	4,097,225	6.21
Total		\$7,857,385	\$...	\$8,489,570	\$...

This table shows that, if the amended plan had been consummated, the preferred stockholders of NOBO, RIPS, MUA, and NEPA could have expected larger dividend payments than they actually received during the 7-year period. In the case of MP&L, however, the probable dividends on this basis would be reduced. The reason

for this is that, during this 7-year period, actual dividend payments averaged about 98 per cent of reported unadjusted earnings and about 105 per cent of earnings adjusted for depreciation accruals as previously shown. It appears that the preferences of this preferred stock are only theoretical, with no asset or earnings

¹⁰¹ In this connection it will be noted that if the MUA preferred stock participating provisions were considered, the estimated postwar earnings available for dividends on the MUA common stock would be 22 cents instead of 25 cents.

¹⁰² These amounts are based on the management's estimate of dividends of \$1.15 per share per year or about 80 per cent of the

7-year average earnings of \$1.45 per share per year applicable to the new common stock of NEES and include certain assumptions used by the applicants as to the earnings attributable to the cash allocated to certain preferred shares as previously discussed.

¹⁰³ This figure represents the number of 6 per cent preferred shares and one-third the number of \$2 preferred shares outstanding.

SECURITIES AND EXCHANGE COMMISSION

cushion junior to it. Because of the downward trend of earnings of MP&L, it would be unrealistic to assume that dividend payments of \$1.96 per share could continue. What has been said about the MP&L preferred stock is applicable to a greater degree when we look at the MP&L second preferred stock, so that a larger relative reduction in dividend pay-

ments is to be expected for this security when the 7-year period is used as a criterion.

Based on the management's estimates of dividends with earnings at the estimated postwar level, the publicly held preferred shares of NEPA and its subholding companies would receive dividends as shown below:

TABLE XXX

	Shares Owned by Public	Estimated Postwar Dividends			
		Actual	Per Share	Pro Forma ¹⁰⁴	Per Share
NOBO Preferred	39,814	\$119,442	\$3.00	\$137,756	\$3.46
MP&L Preferred	957,453	1,675,543	1.75	1,828,735	1.91
MP&L 2nd Preferred	5,513	.....	.....	221	0.04
RIPS Preferred	493,942	987,884	2.00	1,131,127	2.30
RIPS Class A	3,241	12,964	4.00	15,800	4.87
MUA Preferred	562,671	1,406,678	2.50	1,654,253	2.94
NEPA Preferred	661,920 ¹⁰⁵	4,507,675	6.81 ¹⁰⁶	4,646,678	7.02
Total .....	.....	\$8,710,186	\$...	\$9,414,570	\$...

On this basis all the public holders of preferred shares in the NEPA system would receive an increased dividend return.

Proposed Accounting Treatment

Balance Sheet Adjustments

Appendix C [omitted herein] attached hereto shows condensed corporate balance sheets, as at December 31, 1944, of NEPA, RIPS, MP&L, NOBO, and MUA, together with

eliminations, adjustments, and the pro forma condensed balance sheet of NEES on a corporate basis. The following table shows a condensed balance sheet, as at December 31, 1944, of NEPA together with its subholding companies (after eliminations) and the pro forma condensed balance sheet of NEES on a corporate basis, indicating the adjustments incident to the amended plan.

¹⁰⁴ These amounts are based on the management's estimate of dividends of \$1.30 per share per year on earnings of \$1.59 per share per year applicable to the new common stock of NEES and include certain assumptions used by the applicants as to the earnings at-

tributable to the cash allocated to certain preferred shares as previously discussed.

¹⁰⁵ This figure represents the number of 6 per cent preferred shares and one-third the number of \$2 preferred shares outstanding.

¹⁰⁶ This assumes 6 per cent return on the dividend arrearages, as previously discussed.

TABLE XXXIII
Condensed Balance Sheets as at December 31, 1944 of NEPA Together with Its
Subholding Companies (After Eliminations) and of NEES Pro Forma

<i>Assets and Other Debits</i>	NEPA Together with Its Subholding Companies (After Eliminations)	Adjustments ¹	New England Electric System Pro Forma
Investment securities and advances:			
In subsidiaries consolidated:			
Common and preferred shares	\$232,752,316	(\$23,316,541)	\$209,435,775
Bonds	1,715,204	1,040,396	2,755,600
Notes and advances	9,154,828	.....	9,154,828
Other companies	10,259,682	(3,382,682)	6,877,000
Total investment securities and advances	\$253,882,030	(\$25,658,827)	\$228,223,203
Office furniture and miscellaneous equipment	\$11,751	.....	\$11,751
Current assets	4,911,906	24,837,150 ² (338,910) 7,297	2,890,400
Restricted deposits	382,500	(26,527,043)	157,500
Organization expense	440,839	(223,000)	.....
Prepaid charges	8,200	(440,839)	.....
Unamortized debt discount and expenses	1,299,104	(8,200)	.....
Commissions and expenses on issues of preferred shares in 1921 and 1922	140,752	(1,299,104)	.....
Discount on preferred shares	3,264,460	(140,752)	.....
Total assets and other debits	\$264,341,542	(3,264,460)	\$231,282,854
Liabilities:			
Principal amount of NEPA 5 1/2% debentures due 1954	23,081,500	Principal amount of NEPA 5 1/2% debentures due 1954	23,081,500
Principal amount of NOBO 2 1/2% bank credit due 1947 (excluding \$225,000 of cash on deposit with trustee)	12,462,350	Principal amount of NOBO 2 1/2% bank credit due 1947 (excluding \$225,000 of cash on deposit with trustee)	12,462,350
Principal amount of MUA 2 1/2% bank note due 1948	3,000,000	Principal amount of MUA 2 1/2% bank note due 1948	3,000,000
Increase in cash	\$24,837,150	Increase in cash	\$24,837,150
Decrease in restricted deposits of \$225,000 of cash held by the trustee for NOBO.		Decrease in restricted deposits of \$225,000 of cash held by the trustee for NOBO.	

¹ See Simplification Plan Clearing Account for details of all adjustments except those shown below.

² Increase in cash of \$24,837,150—

Proceeds from proposed sale at par, as estimated by the company, of \$85,000,000 principal amount of debt securities

Less:

Principal amount of NEPA 5% debentures due 1948 \$21,619,000

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Liabilities and Other Credits

Funded debt	\$60,387,850	(15,687,350) ⁴ (44,700,500) ⁵	85,000,000 2,103,919 2,255
Proposed debt securities .....	.....	.....	.....	.....
Current liabilities .....	.....	.....	.....	.....
Deferred credits	1,786,824	.....	.....	.....
Share capital held by the public:	2,255	.....	.....	.....
The Rhode Island Public Service Company	.....	.....	.....	.....
Massachusetts Power and Light Associates	.....	.....	.....	.....
North Boston Lighting Properties .....	.....	.....	.....	.....
Massachusetts Utilities Associates .....	.....	.....	.....	.....
New England Power Association .....	.....	.....	.....	.....
New England Electric System .....	.....	.....	.....	.....
Total share capital	\$184,010,853	(\$50,109,353)	.....	\$133,901,500
Surplus paid in .....	.....	.....	.....	.....
Capital surplus .....	.....	.....	.....	.....
Earned surplus .....	.....	.....	.....	.....
Total liabilities and other credits	\$264,341,542	(\$33,058,688)	.....	\$231,282,854

⁴ Reduction in funded debt of \$15,687,350 represents payment of the following debt:
NOBO 2½% secured bank credit, due October 1, 1947 \$12,687,350
MUA 2½% note payable to bank, due February 9, 1948 3,000,000

Total \$15,687,350

⁵ Decrease in funded debt of \$44,700,500 represents the payment of the principal amount of NEPA debentures, as follows:
5% debentures, due April 1, 1948 \$21,619,000
5½% debentures, due December 1, 1954 23,081,500

The increase of \$85,000,000 represents the principal amount of new debt securities proposed to be issued by NEES. \$44,700,500

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Simplification Plan Clearing Account

Under the amended plan the management proposes the use of "Simplification Plan Clearing Accounts" for the purpose of combining in one account for each holding company all items of capital, including the balances of earned surplus and minor miscellaneous adjustments. All charges or credits to be made in connection with the amended plan are to be cleared through these clearing accounts except those relating to the retirement of existing debt, the issuance of new debt and certain miscellaneous adjustments.

As indicated by Table XXXIV following, the capital represented by the publicly held preference and common stocks of NEPA (\$116,780,462) and of its subholding companies (\$67,230,391), the write-up in the proposed recorded value of UER bonds (\$1,040,396), as discussed later, the paid in surplus of NEPA (\$1,500,000) and the balances of earned surplus (\$16,653,760) are to be credited to the clearing account. The amount to be set up in this account, including a miscellaneous credit of \$7,297, will aggregate \$203,212,306. This account will then be used, as shown in Table XXXIV following, for the write-down in the carrying value of investments of preferred and common stocks of subsidiaries of \$16,330,156, the write-off of the excess cost of investments in shares of applicant holding companies over the relative net assets of such holding companies at

dates of acquisition of \$6,986,385, or a total write-down of investments in subsidiary companies of \$23,316,541, the write-down of investments in non-subsidiary companies (\$3,382,682), the write-off of the difference between the amount proposed to be paid to the NEPA debenture holders and the principal amount of such debentures (\$338,910), the charge-off of the balances of unamortized debt discounts and expenses applicable to the debt of NEPA, NOBO, and MUA (\$1,299,104), the charge-off of commissions and expenses applicable to preferred shares of NOBO (\$140,752), the charge-off of discounts on preferred shares applicable to NEPA, NOBO and MUA (\$3,264,460), the charge-off of organization expenses of RIPS and MP&L (\$440,839) and for other miscellaneous charges aggregating \$325,295, or a total of \$32,508,583. The balance of \$170,703,723 will then be charged with an amount of \$26,527,043 representing the cash portion of the distribution to certain preferred stockholders as provided in the amended plan, leaving a balance of \$144,176,680 applicable to the common equity of NEES. After charging the clearing account with the proposed par amount of common stock to be issued, namely \$133,901,500, the balance of \$10,275,180 in the clearing account is to be transferred to capital surplus, to be used to absorb any future losses, sustained or recognized, which are inherent at the time of the proposed recapitalization.

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TABLE XXXIV

NEPA Together with Its Subholding Companies Simplification Plan Clearing Account

Credits

Cancellation of the book liability of the publicly held preferred and common shares of NEPA:

6% Preferred	655,457	shs.	\$65,545,700
\$2 Dividend Preferred	19,388	shs.	620,416
Common	932,604	shs.	50,614,346

Total

\$116,780,462

Cancellation of the book liability of the preferred, class A and common stocks of subsidiary holding companies:

MP&L—\$2 Preferred	957,453	shs.	\$21,198,009
MP&L—\$2 Second Preferred	5,513	shs.	111,638
MP&L—Common	166,333	shs.	1,513,630
RIPS—\$2 Preferred	493,942	shs.	13,583,405
RIPS—\$4 Class A	3,241	shs.	178,255
NOBO—\$3 Preferred	39,814½	shs.	1,990,713
NOBO—Common	3,124½	shs.	99,033
MUA—5% Preferred	562,671	shs.	28,133,550
MUA—Common	422,158	shs.	422,158

Total

67,230,391

Write-up in proposed recorded value of United Electric Railways Company bonds to approximate current value or par

1,040,396

Portion of quarterly dividend declared by Connecticut River Power Co. not previously recorded on the books of NEPA at December 31, 1944

7,297

Transfer of NEPA's paid-in surplus

1,500,000

Transfer of balances of earned surplus as follows: NEPA—\$13,182,695; RIPS—\$1,346,936; MP&L—\$501,342; NOBO—\$263,694; and MUA—\$1,359,093

16,653,760

Total Credits

\$203,212,306

Debits

Net write-down of investments in common and preferred stocks of subsidiaries due to a proposed revaluation of the portfolio based on what the management considers to be "fair value," and the write-off of the excess cost of investments in shares of holding companies over the relative net assets of holding companies at dates of acquisition, not previously eliminated by the applicants:

	Net Write-Down in Portfolio Values	Write-Off of Excess Costs	Total
NEPA	\$21,553,732	\$..	\$21,553,732
RIPS	(7,305,131)	2,468,985	(4,836,146)
MP&L	4,236,733	1,522,731	5,759,464
NOBO	(5,771,774)	7,412,704	1,640,930
MUA	3,616,596	(4,418,035)	(801,439)

Total

\$23,316,541

Reduction in carrying value of securities of nonsubsidiaries to reflect market price:

Owing Company	Securities	Shares	Present Recorded Value	Proposed Recorded Value	Reduction
NEPA	International Hydro-Electric System—Pfd. Shs...	315	\$12,740	\$10,000	\$2,740
NEPA	Eastern Utilities Associates—Common Shs.	75	2,475	2,000	475
NEPA	Eastern Utilities Associates—Convertible Shs. ..	1,215	15,632	5,000	10,632
NEPA	Essex Company—Common Shs.	176	19,569	10,000	9,569

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NEPA Fitchburg Gas & Electric Co.—Common Shs.	5,734	320,430	250,000	70,430
NEPA Lynn Gas & Electric Company—Common Shs. ...	2,169	162,745	193,000	(30,255)
MP&L Lynn Gas & Electric Company—Common Shs. ...	13,006	1,723,292	1,157,000	566,292
NEPA Western Massachusetts Electric Co.—Common Shs.	8,607	554,925	250,000	304,925
NOBO Boston Edison Company—Common Shs.	1,384	72,081	56,000	16,081
MUA Boston Edison Company—Common Shs.	121,716	7,375,792	4,944,000	2,431,792
NEPA Miscellaneous security ....	..	1	..	1
Total .....	..	\$10,259,682	\$6,877,000	\$3,382,682
Write-off of difference between amount proposed to be paid on NEPA debentures and the principal amount thereof				338,910
Cash proposed to be paid to preferred stockholders of subholding companies as follows:				
MP&L—\$7,659,624; NOBO—\$1,433,304; MUA—\$9,284,072; and RIPS—\$8,150,043				26,527,043
Charge-off of organization expenses as follows:				
RIPS—\$264,620 and MP&L—\$176,219				440,839
Charge-off of prepaid stock issue fee of RIPS				8,200
Charge-off of balances of unamortized debt discounts and expenses as follows:				
NEPA—\$983,385; NOBO—\$240,051 and NUA—\$75,668				1,299,104
Charge-off of commissions and expenses on issues of preferred shares in 1921 and 1922 for NOBO				140,752
Charge-off of discount on preferred shares of holding companies as follows:				
NEPA—\$1,623,950; NOBO—\$479,275; and MUA—\$1,161,235				3,264,460
Provision for accrued preferred dividends on publicly held shares to December 31, 1944 for NOBO \$3 Preferred Stock—\$29,859 and for MP&L \$2 Preferred Stock—\$287,236				317,095
Common stock proposed to be issued: 6,695,075 shares at \$20 par				133,901,500
By balance transferred to capital surplus				10,275,180
Total Debits				\$203,212,306

Revaluation of Portfolio

Attached hereto is Appendix D [omitted herein] showing the actual and proposed book amounts of investments in each subsidiary, together with underlying net worths and the excesses of such book amounts over underlying net worths. It appears from this appendix that the present aggregate net carrying values of \$303,447,727, including investments in holding companies which are to be

eliminated, are to be reduced to \$209,435,775, which amount is based on what the management considers to be "fair value," determined primarily by capitalizing the estimated earning power of the subsidiaries applicable to such securities.¹⁰⁷ As at December 31, 1944, the aggregate carrying value of the preferred and common shares of subsidiaries, excluding securities of subholding companies to be eliminated,

¹⁰⁷ Moore testified that the "fair value" of each of the securities to be acquired by NEES under the reorganization and to be recorded on the books of NEES was determined without consideration of previous recorded costs, but each security was valued independently by the management group of the NEPA holding company system and their judgment was concurred in by the senior executives of the

system. In arriving at this evaluation, Moore stated that he regarded the earning power of the properties, as indicated by their past record and estimates of future possibilities, as one of the most important factors considered, but other factors were considered, such as the probability of accounting adjustments ordered by regulatory authorities.

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amounted to \$225,765,930¹⁰⁸ less an investment reserve of \$9,555,551 on MUA's books, or a net amount of \$216,210,379, so that the carrying values of securities of the operating subsidiaries on the books of their immediate parent will be reduced an aggregate amount of \$6,774,604. The excess of carrying values over underlying book values is to be reduced from \$81,950,054 to \$52,444,492, or a total reduction of \$29,505,562, which is accounted for as follows:

TABLE XXXV

Write-down of net carrying values	\$6,774,604
Increase in earned surplus from dates of acquisitions to December 31, 1944	6,274,261
Elimination of MUA's reserve for investments	9,555,551
Elimination of additional excess costs, not previously eliminated by the applicants	6,986,385
Total of above	\$29,590,801
Less: Miscellaneous consolidation adjustment	85,239
Net reduction	\$29,505,562

The company further proposes to write down its investments in non-subsidiary companies from \$10,259,682 to \$6,877,000, or an aggregate write-down of \$3,382,682. The proposed carrying values are to be based on approximate market values as of June 12, 1945. The principal investment, consisting of 123,100 shares of Boston Edison Company common stock, is to be written down from a cost of \$7,447,874 to a book amount of \$5,000,000, or a write-down of \$2,447,874.

¹⁰⁸ The carrying value of securities of the operating subsidiaries were shown at the following aggregate amounts on the books of each holding company:

Revaluation of UER Bonds

As of December 31, 1944, RIPS owned \$2,735,600 principal amount of 5 per cent and 4 per cent bonds of UER, which RIPS carried on its books at the costs shown below:

TABLE XXXVI

Series	Principal Amount	Cost
5%, due January 1, 1951	\$1,261,800	\$844,583
4%, due January 1, 1951	1,473,800	870,621
Total	\$2,735,600	\$1,715,204

Of the UER bonds held by RIPS, all of the 5 per cent bonds and \$1,271,500 principal amount of the 4 per cent bonds have been subordinated to the \$746,900 of UER bonds held by the public.

RIPS has guaranteed the payment of principal and interest of \$420,000 of serial notes due 1945-1951 of its subsidiary, Yellow Cab Company, which notes are held by UER. As a part of the amended plan, RIPS proposes to purchase these notes from UER through the surrender for cancellation of \$400,000 principal amount of UER 5 per cent bonds, to be applied to such purchase upon the basis of their then aggregate redemption price of \$420,000. Since RIPS carries these bonds at a total cost of \$267,739, this transaction will result in an increase of \$152,261 in the carrying value of such bonds. The remaining UER bonds are proposed to be recorded at their principal amount of \$2,335,600, an increase of \$888,135 over their cost to RIPS, as follows:

NOBO	\$34,613,127
MP&L	19,401,833
RIPS	32,194,869
MUA	34,166,595
NEPA	105,389,506
Total	\$225,765,930

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TABLE XXXVII

Series	Book Cost	Principal Amount	Increase
5%, due January 1, 1951 (subordinated)	\$576,844	\$861,800	\$284,956
4%, due January 1, 1951 (subordinated)	753,237	1,271,500	518,263
4%, due January 1, 1951	117,384	202,300	84,916
Total	\$1,447,465	\$2,335,600	\$888,135

Market price ranges for recent years for the publicly held UER bonds are shown below:

TABLE XXXVIII

	5% Bonds Due 1951		4% Bonds Due 1951	
	High	Low	High	Low
1939	98½	85	93	84
1940	101	85	94	87
1941	101	99	98	91½
1942	101½	96	96	91
1943	104	100	103½	96
1944	103	103	103	98

As a result of the foregoing proposals the recorded value of the UER bonds will be increased to the approximate market price, or an aggregate increase of \$1,040,396.

Reserve Relating to Investments

As previously indicated, the management proposes to provide a general reserve relating to investments for the purpose of absorbing any future losses which are not inherent at the time of the proposed recapitalization, but which might be sustained in the future. This reserve is to be provided for by charging net income, before its transfer to earned surplus, at the rate of \$1,250,000 annually beginning in the sixth year and ending the thirtieth year after the effective date of the amended plan.¹⁰⁰ The aggregate of such reserve to be so accumulated will amount to \$31,250,000 at the end of the 30-year period. The management estimates that future earnings

of subsidiaries of NEES will be retained in the operating companies to the extent of about \$600,000 per year based on average levels of business, or about \$18,000,000 over a 30-year period. Although this retention does not affect the excess of carrying values over underlying book values at acquisition dates, which will be shown on the consolidated balance sheet, the difference between such carrying values and future underlying book values would be reduced thereby. Thus, the aggregate of the reserve and the retention of earnings by the subsidiaries over a 30-year period are estimated to approximate the proposed excess carrying values.

Although the pro forma balance sheet does not show an earned surplus, any earnings subsequent to the effective date of the amended plan will be credited to earned surplus dated as of the effective date of the amended plan, except that any dividends paid by subsidiary companies in excess of earnings subsequent to the effective date of the amended plan will be treated as reductions of investments on the holding company's books rather than credits to earned surplus.

Conclusion with Respect to Accounting Treatment

We have given consideration to the proposed method of recording the

¹⁰⁰ This is subject to discontinuance upon approval or order of this Commission. It will be noted that the amounts proposed to be so transferred are substantially less than

the company's estimate of the sinking-fund requirements on the \$85,000,000 of new debt securities to be issued.

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carrying values of the portfolio securities on the books of NEES and have found that the basis upon which the values were determined is reasonable and that under the circumstances, including the establishment of the general reserve relating to investments, the proposed carrying values are appropriate. We have considered also the other proposed accounting entries, including the establishment of a capital surplus in the amount of approximately \$10,000,000 and the mechanism of clearing accounts for the purpose of affecting the proposed accounting adjustments, and we find that they are in accord with the requirements of the Uniform System of Accounts for Public Utility Holding Companies.

It will be noted that the excess of investments to be recorded on the books of NEES over the relative net assets of subsidiaries in the amount of \$52,444,492 may increase due to any downward adjustments of the property accounts of subsidiaries which may be required by regulatory authorities having jurisdiction. Therefore, published financial statements of NEES should indicate this fact in a footnote or otherwise.

NEES Declaration of Trust

The reorganized company, like NEPA, will be a Massachusetts voluntary association. The amended plan provides that the present NEPA Agreement and Declaration of Trust, dated January 2, 1926, is to be amended and the name of the trust changed to New England Electric System. Title to the assets of the new company will be in a trustee, though the business will be conducted under the name

of the new company and will be managed by a board of directors who in turn will choose the usual administrative officers. From a business standpoint the NEES voluntary association will operate substantially the same as a Massachusetts corporation. The amended trust agreement provides for the authorization, without the necessity of obtaining further shareholder consent, of bonds or obligations issued pursuant to the amended plan and of 7,500,000 common shares at the par value of \$20 each, of which 6,695,075 shares are to be issued to carry out the amended plan.

Voting Rights of Common Shareholders of NEES

The amended trust agreement will provide that the common shareholders of NEES are entitled to one vote per share in the election of directors. No provision has been made for cumulative voting. By a vote of two-thirds of the shares outstanding and entitled to vote, any shares authorized may be reduced in number, may be changed into the same or a different number of shares of any class or classes with or without par value, or may be classified or reclassified. The same shareholder approval will be required to authorize shares with any preference as to dividends or in liquidation or otherwise over the common shares, or to pledge or authorize a sale of the assets of NEES as a whole or substantially as a whole. A majority vote of the common shares outstanding and entitled to vote is required in order to terminate the trust agreement, increase or reduce the par value of shares, or amend the trust agreement unless the provision to be amended requires a larger vote. Provision is also made

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for preemptive rights to subscribe to any additional common shares to be issued for cash.

The Board of Directors of NEES

The amended plan provides that the initial board of directors of NEES shall consist of the following fifteen men: Arthur M. Allen, Providence, Rhode Island; Howard W. Cole, Beverly, Massachusetts; Charles A. Coolidge, Boston, Massachusetts; Halsey C. Edgerton, Hanover, New Hampshire; Joseph B. Ely, Westfield, Massachusetts; Paris Fletcher, Worcester, Massachusetts; Carl S. Herrmann, Boston, Massachusetts; Fred A. Howland, Montpelier, Vermont; Frederick W. McIntyre, Worcester, Massachusetts; John J. McMahon, Providence, Rhode Island; Robert H. Montgomery, Boston, Massachusetts; Irwin L. Moore, Boston, Massachusetts; Thomas C. O'Hare, Boston, Massachusetts; Walter B. Reilly, Lowell, Massachusetts; Rockwell C. Tenney, Boston, Massachusetts.

If at any time up to the installation of these nominees one or more of them become ineligible to serve on the initial board of directors, the vacancy will not be filled but the number of directors will be reduced accordingly. The board will be installed and will take office when the amended Agreement and Declaration of Trust of NEES becomes effective and will continue in office until the annual meeting of the shareholders for the calendar year next succeeding the year in which the amended plan is consummated,¹¹⁰ or until a special meeting is held in lieu of such annual meeting as

provided in the amended Declaration of Trust.

Moore stated that in selecting the particular individuals to constitute the initial board of directors, he and his staff undertook to canvass as many of the present shareholders of the participating companies as was practical. Moore further indicated that he talked personally with a large number of shareholders whose holdings would aggregate approximately 25 per cent of the new common shares. He further testified that, in the talks with shareholders, their principal concern was to secure a board of directors what would provide the new company with the best possible supervision and management. It was generally agreed that the new board should include not only people specifically connected with participating shareholder groups but also representatives of businesses and public interests within the areas served by the system in the four states of Vermont, New Hampshire, Massachusetts, and Rhode Island, as well as several members from the present operating personnel.

Ordinarily, in recapitalization proceedings under § 11 of the act, stockholders have been afforded an opportunity to nominate and elect the initial board of directors. The purpose of this procedure is to assure that the new distribution of voting power is in fact effective and that the control of the proxy machinery does not enable a possibly unrepresentative board of directors to retain control. If, however, an initial board of directors can be selected in any other

¹¹⁰ If we assume that the amended plan becomes effective in 1946, the proposed initial board of directors would serve until the an-

nual meeting for 1947 which, under the amended Declaration of Trust, would normally come on the third Tuesday of May.

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way which provides reasonably appropriate representation of the class or classes having the new voting power and if there is no disagreement on the part of any class or among the classes of security holders in this respect, the use of the usual nomination—election machinery is not necessarily required. The position of the applicant is that such a situation is present in this case.

As has been seen, the proposed board was selected after consultation with many interested stockholders. Moreover, the names of men proposed for the initial board of directors were sent to all security holders of record of NEPA and its subsidiary holding companies and notice was given to them of the hearing at which the method of selecting the initial board of directors and its composition were to be issues. No opposition by any stockholder or group of stockholders to the individual members of the proposed initial board of directors was voiced at such hearing. However, counsel representing the Tenney interests in MP&L, while not objecting to any individual nominee or raising any question of the competency of the proposed board, has objected to the proposed board on the ground that it would continue the control by the so-called "NEPA group" and he advocated employment of the usual mechanism for the nomination and election of the initial board of directors.

Under the proposed allocations, which we have found to be fair and equitable, the NEPA preferred shares as a class will receive about 53 per cent of the NEES common shares and the NEPA common shares as a class will receive about 9 per cent of the NEES

common shares. In view of this we obviously could not agree that the "NEPA group" should be excluded from control or that the usual machinery would have this result. In our opinion the proposed board affords adequate representation to all the security holders of the subholding companies and NEPA. Under the circumstances presented, we are of the opinion that the public interest and the interests of security holders are adequately safeguarded by the procedure proposed. Accordingly, we find that the amended plan is fair and equitable in this respect.

Issuances and Acquisitions of Securities

The proposed issue and sale by NEES of \$85,000,000 of debt securities and of 6,695,075 common shares of \$20 par value per share is subject to § 7 of the act. In addition, the amended plan provides for the issuance of fractional scrip exchangeable for whole shares during a 5-year period. Since the new debt and common shares to be issued are solely for the purpose of effecting a reorganization of NEPA and its subholding companies, we find that they meet the requirements of § 7(c) and that with respect to the new common shares no adverse findings are required under § 7(d). Inasmuch as it is proposed that an application under § 7 of the act will be filed for approval of the \$85,000,000 of new debt at a subsequent date, it is unnecessary that we make at this time all the definitive findings with respect to such issuance. However, for the purpose of passing upon the amended plan, we find that it is permissible under the standards

RE NEW ENGLAND POWER COMMISSION

of § 11 that the proposed capital structure of NEES contain \$85,000,000 of debt, provided appropriate protective provisions are adopted, including an adequate sinking fund and effective restrictions with respect to dilution of debt coverage. The scrip certificates are a type of security which may be issued under § 7(c)(2)(A) and no adverse findings are necessary under the standards of § 7(d).

The acquisitions by NEES, directly, of the securities now held by the subholding companies and the acquisitions by NEPA and its subholding companies of their respective outstanding preferred and common stocks and warrants, fractional warrants, scrip certificates, and share trust certificates representing certain of the securities of NEPA and its subholding companies come under the standards of §§ 10 and 12(c) of the act. With respect to the acquisitions and retirements by NEPA and its subholding companies of their own respective securities, we find that the requirements of § 12(c) are met. With respect to the acquisitions by NEES of the portfolio securities of the subholding companies we find that the requirements of § 10 are met and that the acquisitions of securities of public utility companies have the tendency required by § 10(c)(2). In making findings under § 10, we wish to point out that while we regard the amended plan as a substantial step in compliance with § 11, there remain questions of compliance with that section, particularly § 11(b)(1), and our findings with respect to the amended plan should not be considered as determinative of any of the remaining problems under § 11.

Other Problems

RIPS Guaranty

As heretofore noted, upon consummation of the amended plan, NEES will own all the assets of its subholding companies, including RIPS. The record indicates that in 1932 RIPS guaranteed principal and interest on certain serial promissory notes of Yellow Cab Company, a nonutility subsidiary of RIPS, maturing \$15,000 a year until 1950, the balance of \$330,000 being due in 1951. The present holder of such notes is UER. Pursuant to agreement between UER and RIPS, the latter is to purchase such notes at any time upon request of UER on six months' notice. The amended plan provides that RIPS will purchase these outstanding notes at their principal amount with payment to be made through surrender for cancellation of subordinated bonds of UER now held by RIPS, such bonds to be applied to such purchase upon the basis of their redemption price. As this proposal is a necessary element to the fairness of the amended plan and is within the terms of the agreement heretofore entered into between RIPS and UER, we find this proposal to be fair and equitable to the persons affected by the amended plan.

UER Bonds

In 1928 RIPS agreed to deposit with a trustee annually to and including 1950, \$100,000 plus an amount equal to interest paid on subordinated bonds. The agreement provides for the application of this amount so deposited to the purchase each year of the UER bonds tendered at not in excess of the call price, for the subordination of any bonds so purchased to

SECURITIES AND EXCHANGE COMMISSION

all other bonds of UER and for the repayment to RIPS of any amounts deposited which are not so applied because of insufficient tenders. As at December 31, 1944, \$2,533,300 of UER bonds have been subordinated pursuant to this agreement and are now held by RIPS. Of the remaining \$949,200 of bonds, \$202,300 are held by RIPS and \$746,900 by the public. The amended plan provides that the obligations of RIPS under this agreement are to be assumed by NEES with the subordinated bonds to remain subordinated. As the assumption by NEES of RIPS obligations to the publicly held UER bondholders is a necessary element to the fairness of the amended plan and is within the terms of the agreement heretofore entered into between RIPS and UER, we find the assumption by NEES of RIPS' obligation to the UER bondholders meet the requirements of § 7 and is fair and equitable to the public holders of the UER bonds and to the persons affected by the amended plan.

Fees and Expenses

The amended plan also provides that the applicant companies will pay all expenses incident to the consummation of the amended plan and proceedings relating thereto, and to the extent such expenses are not paid by the applicant companies prior to the consummation date of this amended plan, they will be paid by NEES subject to our approval and the approval of an appropriate United States district court. In addition, the amended plan provides that NEES is to pay such fees and expenses of others in connec-

tion herewith as are similarly approved. As no estimate of the fees and expenses incurred or to be incurred in connection with the amended plan has been submitted as yet for our approval, our order will reserve jurisdiction to consider the reasonableness of all fees and expenses arising in connection with the amended plan.

Internal Revenue Code

The applicant companies have requested that the Commission order herein contain the appropriate recitals necessary to meet the requirements of § 371 and subsection (f) of § 1808 of the Internal Revenue Code, as amended. In view of our findings herein, such recitals are clearly appropriate and will be contained in our order.

Enforcement

The amended plan provides for enforcement thereof by an appropriate United States district court. Our order approving the amended plan will contain a condition that our approval shall not be effective until such United States district court enters an order enforcing the amended plan.

Conclusions

[9] On the basis of the foregoing we find the amended plan fair and equitable to the persons affected by it. As we have above found the amended plan necessary to effectuate the provisions of § 11(b) of the act, we shall issue an order approving the amended plan and apply to the proper United States district court for its enforcement in accordance with the request of the applicant companies herein.

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RE WAUKESHA WATER UTILITY
WISCONSIN PUBLIC SERVICE COMMISSION

Re Waukesha Water Utility

2-U-2097
January 15, 1946

PLAN proposed by municipal water utility for profit sharing with employees; approved.

Labor, § 6 — Profit-sharing plan — Municipal utility.

Approval should be granted for a profit-sharing plan proposed by a municipal water utility where, in effect, the amounts distributed would amount to a salary increase ranging from 3.6 per cent to about 8 per cent, with the maximum percentage increase going to the average salaried employee and the smallest percentage increase going to the highest paid employee—the increase being limited to an amount which normally would not be questioned from a regulatory viewpoint.

By the COMMISSION: On October 11, 1945, the city of Waukesha, Waukesha county, as a public water utility, acting through its water utility commission, filed with this Commission a request for the approval by this Commission of a profit-sharing plan. Section 196.11, Wisconsin Statutes, provides that no such arrangement shall be lawful until it is found by the Commission to be reasonable and just and consistent with the purposes of Chapter 196, Statutes.

Notice of hearing and assessment of costs was issued on October 25, 1945.

APPEARANCES: A. P. Kuranz, Manager, and J. G. Laing, President, for Waukesha Water Utility; G. Koenig, Waukesha, for Waukesha Daily Freeman; Eugene M. Downey, Rate Analyst, Of the Commission Staff.

On January 6, 1945, the Waukesha Water Utility Commission, by virtue

of its authority to fix rates of pay of utility employees as set forth in the city ordinance of February, 1941, establishing the local nonpartisan commission, voted unanimously for the adoption of the following employees' profit-sharing plan:

"That the employees shall share in the net income of the Waukesha Water Utility as determined by the auditors engaged by the Water Utility Commission each year.

"That the net income will be the amount remaining after retirement expenses, local taxes, and dividends on the city equity have been deducted.

"That the employees share on the basis of 4 per cent of this net total, but that no employee's share shall exceed \$150 per year.

"That each employee who has been with the Waukesha Water Utility for a period of six months during the years in which the plan is effective share on the basis of his total wages

WISCONSIN PUBLIC SERVICE COMMISSION

and salary, including the Salary Savings Plan now in effect for most of the employees of the Waukesha Water Utility.

"That said profit-sharing payment shall be made after the auditors engaged by the Water Utility Commission have made their report (which usually occurs before March 1st of the following year).

"That the plan shall be considered as part of the wages and salaries paid to each employee."

The plan was modified at the March 5th special meeting of the Water Utility Commission by substituting \$200 for \$150 in paragraph three, thereby increasing the maximum amount that an employee would receive under the plan to \$200.

At the time the plan was adopted by the local commission it was intended to apply for the years 1944 and 1945 "on a trial basis" but at the hearing it was intimated that "if it were on a basis where it could be continued into the future, that would be what the commission (local) would like."

Ordinarily fixing of salaries and wages of employees of a public utility is a matter which does not concern the Commission. The statutes, however, specifically establish the jurisdiction of the Commission in the matter of employee profit-sharing plans (§ 196.11) requiring the Commission to find that any proposed plan is reasonable and just and consistent with Chap 196 of the Statutes.

The employee profit-sharing plan herein proposed by the Waukesha Water Utility Commission, subject to minor changes for clarification only, seems to meet the statutory requirements. The amount to be so distrib-

uted is limited to 4 per cent of the surplus earnings as defined in the plan. In effect, it amounts to a salary increase ranging from 3.6 per cent to about 8 per cent with the maximum percentage increase going to the average salaried employee and the smallest percentage increase going to the highest paid employee. If these increases were not involved in an employee profit-sharing plan, the Commission would not be concerned regarding the propriety of the move. The fact that a profit-sharing plan is involved, which incorporates an added incentive to the employee to watch for and incorporate economies of operation, causes the matter to be brought before the Commission but only in so far as the reasonableness of the plan is concerned.

Since the amount of the increase is limited under the plan to an amount which normally would not be questioned from a regulatory viewpoint and since the smallest percentage increase accrues to the highest salaried employee, the proposed plan in general meets the statutory requirements of being reasonable and just and consistent with Chap 196 of the Statutes.

There are, however, some clarifications which should be pointed out in connection with the present wording of the profit-sharing plan; first, from the standpoint of interpretation of the plan and, second, from the standpoint of avoiding similar difficulties in outlining any plan which may be contemplated in the future.

In one paragraph the plan provides that the employees share in "the net income . . . as determined by the auditors . . ." The next paragraph provides "that the net income will be the amount remaining after retirement

RE WAUKESHA WATER UTILITY

expenses, local taxes, and dividends on the city equity have been deducted." The net income is thus defined on two separate bases. Reference is made to "retirement expenses" and the record shows that this is intended to be "depreciation expense" determined from rates certified by the Commission. The term "local taxes" refers to tax equivalents (§ 66.06(11)(c)). "Dividends" on the city equity was intended to cover the customary practice in Waukesha of appropriating to the General Fund a 4-per cent "return" on the city equity account balance.

Net income is to be determined by the auditors who shall take into account depreciation and taxes as de-

finied above. Four-per cent "dividends" on the city equity account balance shall be deducted from net income and the employees are to share in the remaining balance as provided for in the plan.

With these interpretations there should be no misunderstandings in carrying out the provisions of the plan. In any future plan these items should be clearly set forth.

The Commission finds and determines:

That the employee profit-sharing plan of the Waukesha Water Utility as discussed above is reasonable and just and consistent with the purposes of Chap 196 of the Statutes.

GEORGIA PUBLIC SERVICE COMMISSION

Re Savannah Electric & Power Company

File No. 19384-1, Docket No. 7913-A
February 11, 1946

INVESTIGATION of residential and commercial electric rates;
reduced rates ordered.

Payment, § 53 — Discount to enforce.

1. Prompt payment discounts on bills for electric service should be eliminated when a revision of rates is made, p. 60.

Return, § 87 — Electric utility.

2. A return of approximately 5 per cent on the book value of the electric department of a public utility, less depreciation reserve, was approved upon a downward revision of rates following elimination of excess profits taxes and a reduction in normal and surtax rates, p. 60.



By the COMMISSION: On December 19, 1945, the Commission directed a letter to all electric and gas utilities operating in Georgia, requesting specific information as to the effect

of the removal of the excess profits tax on net revenue, and on December 28, 1945, the Commission granted a petition of the Savannah Electric and Power Company for authority to sell

GEORGIA PUBLIC SERVICE COMMISSION

its street railway and bus properties which have now been sold. On January 29, 1946 a letter was directed to this company which summarized a staff study of a comparative statement for the first eleven months of 1945. This income statement showed both the actual result of operations of the electric and transportation department and the result from electric operations alone excluding the transportation department. The letter of January 29th advised that this pro forma income statement had been analyzed by the Commission in order to determine the prospective earnings of the company from electric service after the disposition of the Transportation Department, and called attention to the savings which would be realized by the company through the elimination of the excess profits tax, concluding that consideration should be given to a downward revision in the residential and commercial rate schedules of the company. Accordingly, a conference was scheduled at ten o'clock A.M., on February 11, 1946, to determine what revision in rates should be made. This conference was held in conformity with the Commission's established policy of effecting rate adjustments through the informal conference method.

Under the Revenue Act of 1943 income tax liability in 1945 is computed at the rate of 24 per cent of normal tax net income, plus 16 per cent of surtax net income, plus 95 per cent of excess profits tax net income, less a 10 per cent postwar credit on the excess profits tax paid. Under the Revenue Act of 1945, reducing Federal income taxes on and after January 1, 1946, the excess profits

tax is eliminated and normal and surtax rates of 24 per cent and 14 per cent respectively will be applicable. The normal and surtax rates have been reduced from a total of 40 per cent to 38 per cent, which same rate will also apply in lieu of the 85½ per cent tax on excess profits. The Commission's staff has computed that this revision of Federal income taxes would have reduced the 1945 income tax liability of the Savannah Electric and Power Company by approximately \$240,000.

Mr. John J. Bouhan, counsel, and Mr. Chas. S. Schwaner, treasurer of the Savannah Electric and Power Company, attended the conference with the Commission and discussed the effect of the sale of the transportation department on the results of the operation of the electric department, as well as the effect of the new income tax laws. In reply to the indicated operating expense savings from these two factors, the company representatives presented a budget estimate of revenues and expenses which had been prepared for the year 1946. They contended that gross revenue from electric service in 1946 would be less than in 1945 by reason of the closing down of shipyards and Army installations following the termination of the war. They further pointed out that the general increase in all costs at the present time will substantially increase the operating expenses of the company.

[1, 2] The question of prompt payment discounts on bills for electric service was discussed at the conference, together with other specific rate changes. The Commission has felt that discounts should be eliminated for all classes of utility service as

RE SAVANNAH ELECTRIC & POWER CO.

rapidly as possible and has recently prescribed rates for gas service with discounts reduced by approximately 50 per cent. It is the opinion of the Commission that prompt payment discounts should be omitted whenever revision of rates are under consideration. While there may be argument for discount for prompt payment, there are many instances where the charge which is added and collected on delayed payments works a real hardship, and the amount of the charge is often times out of proportion to the added cost to the company on delayed payment of bills. Investigation into the experience of other companies by the Commission appears to indicate that collections are more prompt after the elimination of the discount, for the reason that with a 10-day period of grace consumers delay payment until the end of the period, while the elimination of the discount results in payment of a majority of bills immediately upon receipt. It is further a matter of common knowledge that bills for competitive commercial services of nonutility character are not discounted for prompt payment, and discounts are not applied to rates prescribed by this Commission for telephone service. The Commission, therefore, is of the opinion that the prompt payment discount on bills for electric service provided by the Savannah Electric and Power Company should be eliminated and this order will so provide.

After giving consideration to the various factors which would affect earnings, the Commission has concluded that the residential and commercial rate schedules of the company should be revised so as to effect a reduction of approximately \$127,300

per annum. Under the rates herein prescribed, the residential rate will be reduced approximately \$34,300 per annum, the general commercial rate approximately \$57,000 per annum, and the elimination of prompt payment discounts which will further reduce the revenue of the company by \$36,000 per annum.

After this proposed reduction in rates, the forecasted net earnings of the Savannah Electric and Power Company for the year 1946 will amount to approximately \$505,000 which represents approximately a 5 per cent rate of return on the book value of the electric department, less depreciation reserve after the elimination of the \$2,337,788.24 investment in the transportation department which has been sold. While actual results may vary from this forecast, it appears that the indicated rate of return warrants the downward revision in the rates herein ordered. Wherefore, it is

Ordered: That the following shall be the maximum rates of the Savannah Electric and Power Company for electric service to residential consumers:

First 20 kw. hr. or less per month \$1.00
Next 80 kw. hr. per month @ 3.6¢ per kw. hr.
Next 100 kw. hr. per month @ 2.0¢ per kw. hr.
Over 200 kw. hr. per month @ 1.5¢ per kw. hr.

Ordered further: That the following shall be the maximum rates of the Savannah Electric and Power Company for commercial lighting and power service:

First 20 kw. hr. or less per month \$1.00
Next 280 kw. hr. per month @ 4.5¢ per kw. hr.

GEORGIA PUBLIC SERVICE COMMISSION

Next 700 kw. hr. per month @ 4.0¢ per kw. hr.
Next 1,500 kw. hr. per month @ 3.0¢ per kw. hr.
Next 1,500 kw. hr. per month @ 2.0¢ per kw. hr.
Over 4,000 kw. hr. per month @ 1.5¢ per kw. hr.

Ordered further: That the above rates shall become effective on all bill rendered which are based on meter

readings made on and after April 1, 1946.

Ordered further: That Savannah Electric and Power Company shall file revised schedules with the Commission in conformity with the terms of this order, including the elimination of prompt payment discounts from all electric service rate schedules.

UNITED STATES CIRCUIT COURT OF APPEALS, FIFTH CIRCUIT

Rio Grande Valley Gas Company v. City of McAllen et al.

No. 11435
152 F2d 591

December 10, 1945; rehearing denied January 11, 1946

APPPEAL from judgment for city in action by gas company to have revenue bonds canceled as constituting a cloud on the company's easements, titles, and franchise contracts; affirmed.

Judgment, § 2 — Res judicata — Competing municipal plant.

1. A judicial decision that a municipality had the right to construct, purchase, and operate a gas system and issue bonds therefor was a bar to a suit by a gas company to have revenue bonds issued by the municipality canceled as constituting a cloud on easements, titles, and franchise contracts to operate a gas system, p. 64.

Parties, § 7 — Utility as complainant — Bond issue for municipal plant — Non-exclusive franchise.

2. A gas company, having a nonexclusive franchise to operate in a city, has no legal right to complain of the action of the city in purchasing, constructing, or maintaining a gas system and issuing revenue bonds in payment thereof, p. 64.

APPEARANCES: R. A. Hightower and Rufus G. Ransome, both of Brownsville, Tex., for appellant; E. A. McDaniel, of McAllen, Tex., for appellees.

63 PUR(NS)

Before Hutcheson, Waller, and Lee, Circuit Judges.

WALLER, C.J.: The facts in this case are fully set out in the opinion of

RIO GRANDE VALLEY GAS CO. v. CITY OF McALLEN

the lower court. Since it is not reported, we quote it here:

"Plaintiff, Rio Grande Valley Gas Company, instituted this suit against the city of McAllen, its mayor, city commissioners, and others, alleging that plaintiff owns and operates a gas system in the city of McAllen, under franchise granted by said city, and that the defendant, city of McAllen, now owns and operates a gas distribution system. It is further alleged that a bond issue for the purpose of constructing the municipally owned gas system has been issued in the sum of \$125,000, and that such bond issue constitutes a cloud on plaintiff's easements, titles, and franchise-contracts generally, and should be removed and canceled. Plaintiff prays for damages, costs of suit, and relief generally. Plaintiff also contends that the purported bonds are void and asks that all clouds cast on plaintiff's franchise-contracts be removed.

"Defendants answer and say that plaintiff instituted suit in the 93rd district court of Hidalgo county, Texas, against all of these defendants, wherein plaintiff claimed against defendants all of the matters and things set out in the instant case. A general demurrer was sustained to plaintiff's said petition, and upon plaintiff's refusal to amend, said cause was dismissed. That thereafter, plaintiff appealed said case to the court of civil appeals for the fourth supreme judicial district of Texas, at San Antonio, and such court of civil appeals affirmed the judgment of said district court. (Rio Grande Valley Gas Co. v. McAllen [Tex Civ App 1941] 158 SW2d 122). Writ of error was denied by the supreme court of Texas.

Defendants herein plead that all matters and things set out in plaintiff's complaint are *res adjudicata*, and further that the city of McAllen has the right, under the Constitution and laws of Texas, to construct and/or purchase and operate a gas system, and say that they had the legal right to issue the \$125,000 bond issue, and deny that same is a cloud and fictitious lien on plaintiff's easements, titles, and franchise-contracts.

"It is admitted that the franchise of plaintiff was not an exclusive one.

"It is perfectly plain that the authority of the city of McAllen to purchase or construct and maintain a municipal gas system, and to issue revenue bonds for such purposes, has been specifically and definitely judicially ascertained by the appellate courts of Texas in the case of Rio Grande Valley Gas Co. v. McAllen, 158 SW2d at p. 123, wherein it is said: 'Appellant first contends that the governing body of the city of McAllen is without authority to purchase or construct and maintain a municipal gas system or to issue revenue bonds for such purposes. We overrule this contention. Such authority is given to the governing body of the city of McAllen, it being a home rule city, by Article 1111, Vernon's Ann Civ Stats; Dayton v. Allred (1934) 123 Tex 60, 68 SW2d 172.'

"Writ of error was denied in this case by the supreme court of Texas.

"The United States circuit court, fifth circuit, passed upon a similar proposition of law in the case of Arkansas Louisiana Gas Co. v. Texarkana (1938) 27 PUR(NS) 509, 100 F2d 652, in an opinion by Circuit Judge Hutcheson. In that case it

UNITED STATES CIRCUIT COURT OF APPEALS

was held that a gas company, similarly situated to the plaintiff herein, was without the legal right or justiciable interest to prevent the city of Texarkana from instituting the municipal system or issuing revenue bonds to pay therefor, even though the city in so doing would subject the gas company to competition. The defendant having a plain legal right to own and operate such gas system, plaintiff did not have any justiciable interest or right to question the means or methods employed by the city in acting as it did.

"To the same effects is another fifth circuit opinion in the case of Southwestern Gas & E. Co. v. Texarkana (1939) 31 PUR(NS) 443, 104 F2d 847, opinion by Circuit Judge Holmes. As authority for this latter opinion, the following cases are cited with approval: Tennessee Electric Power Co. v. Tennessee Valley Authority (1939) 306 US 118, 83 L ed 543, 27 PUR(NS) 1, 59 S Ct 366; Alabama Power Co. v. Ickes (1938) 302 US 464, 82 L ed 374, 21 PUR(NS) 289, 58 S Ct 300; Arkansas Louisiana Gas Co. v. Texarkana (1938) 27 PUR(NS) 509, 100 F2d 652; Carolina Power & Light Co. v. South Carolina Pub. Service Authority (1938) 23 PUR(NS) 56, 94 F2d 520; Duke Power Co. v. Greenwood County (1937) 91 F2d 665; affirmed (1938) 302 US 485, 82 L ed 381,

21 PUR(NS) 298, 58 S Ct 306. Such opinion also holds that it is legally immaterial that the municipal system resulted in impairment of the value of plaintiff's investment.

[1, 2] "In view of the above clear-cut pronouncements on this subject, it is my opinion that:

"(1) That plaintiff, Rio Grande Valley Gas Company, has already had its alleged right definitely and authoritatively determined, and that the decision by the Texas appellate courts, *supra*, constitute res adjudicata of any such rights as plaintiff here asserts.

"(2) That plaintiff had no legal right to complain of the action of the city of McAllen, and others joined with it in this suit, in the purchase or construction or maintenance of a gas system in said city, or the issuance of revenue bonds in payment therefor, inasmuch as the city of McAllen had not given plaintiff an exclusive franchise, and was a 'Home Rule City.'

"It, therefore, follows that judgment should be and is hereby granted in favor of the defendants, and that plaintiff take nothing by this suit. All costs herein are adjudged against the plaintiff."

We approve the findings of fact and conclusions of law of the lower court and see no occasion for adding anything further thereto.

The judgment is affirmed.



Industrial Progress

Selected information about products, supplies, and services offered by manufacturers. Also announcements of new literature, new construction, and changes in personnel.



Fluorescent Fixture Design Contest Winners Announced

THE four top-ranking contestants in the second annual Sylvania Electric Products Inc., commercial fluorescent fixture design contest were presented recently with cash prizes totalling \$1,100 by Robert H. Bishop, director of sales for the company. Inscribed plaques were also given to them by Stuart Goodwillie, manager of central station sales. Eighteen others were named as \$50 meritorious winners.

For his design of an unusual fixture employing four of the Sylvania Electric fluorescent long slim type of lamps, Clarence J. Berry of the Consolidated Gas, Electric Light and Power Company of Baltimore won the \$500 first prize. Second place and \$300 was given to E. M. Prims of the Public Service Company of Northern Illinois, Evanston, Illinois. Carter Lewis, of the St. Louis Union Electric Company of Missouri, and H. Stuart Thomas of the Mississippi Power and Light Company, Greenville, Mississippi, won third and fourth places respectively with cash prizes of \$200 and \$100.

In citing the prize-winning entrants, Mr. Bishop said, "Every new fixture idea and design adds impetus to the drive for improving lighting conditions in commercial establishments, and this year's group of fixtures are of such unusually high merit that the fixture manufacturer now knows the country's businessmen are becoming lighting conscious."

A-C Annual Review

IMPROVEMENTS in design details to provide for increased reliability and efficiency of steam turbines and significant progress toward early application of the gas turbine highlighted 1945 developments of special significance to the electrical power generation industry, according to the annual engineering Review of the Allis-Chalmers Mfg. Company, Milwaukee, Wisconsin, soon to be released.

Engineering contributions in this field were among the most important of those made by the company to virtually every phase of American industry, involving a range of industrial products which Allis-Chalmers describes as

the widest in the world. Newest fields of industrial activity in which notable progress was achieved in 1945 varied from jet propulsion and the gas turbine to industrial radiography and dielectric heating.

New Rockwell-Emco Meter Bulletin

THE recently announced Rockwell-Emco No. 0 domestic gas meter is described in a new bulletin just issued by the Pittsburgh Equitable Meter Division of Rockwell Manufacturing Company.

The three important advantages of this design, improved performance, simplified repair, and reduced weight are explained by detailed photographs and explanatory text. A four-page section of the bulletin is devoted to a discussion of aluminum alloy pressure castings for use as meter bodies. Write to Pittsburgh Equitable Meter Division, Rockwell Manufacturing Company, 400 N. Lexington avenue, Pittsburgh 8, Pennsylvania, and ask for bulletin No. 1100.

Mitchell Elected President of Sylvania Electric Products

DON G. MITCHELL, former executive vice president of Sylvania Electric Products, Inc., has been elected president of the company by the board of directors. At the same time Walter E. Poor, who has been president of Sylvania Electric since 1943, was elevated to the chairmanship of the board of directors.

Condenser Tube Inserts

CONDENSER SERVICE & ENGINEERING COMPANY, Inc., Hoboken, New Jersey, has issued a new bulletin describing Flowrites, metal inserts for inlet ends of condenser tubes, which prevent tube end erosion. Report of tests conducted at Massachusetts Institute of Technology, with tables, graphs, and data showing how condenser operation is improved with Flowrites are included.

Diebold Appointment

DIEBOLD, INCORPORATED announces the appointment of L. B. Flaws as sales manager of its systems products division. A pioneer, and for many years a leading manufacturer of safes, chests, vault doors, heavy armor plate, and bank vault equipment, Diebold's line has been extended by the acquisition of a broad line of products in the field of Systems housing and recording, including Cardineer, Safe-

(Continued on page 26)

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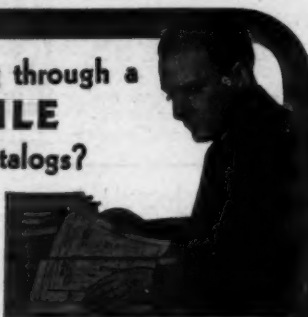
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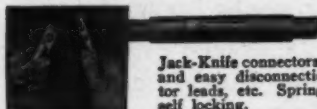
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CONDUCTOR FITTINGS

MAY 23, 1946

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(Continued from page 25)

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Mr. Flaws, who will head this division, formerly was assistant to the vice president of International Business Machines, with whom he was associated in various executive capacities for over twenty-five years.

General Detroit Opens Cleveland Office

THE opening of a new Cleveland office of The General Detroit Corp. and The General Pacific Corp., manufacturers of fire extinguishers, motorized fire apparatus, and allied equipment, is announced by E. A. Warren, vice president in charge of sales. The office, located at 912 Park building, will make possible more efficient service to Cuyahoga County.

Scott E. Collins has been appointed zone sales manager in charge of the new office.

American Optical Offers New Safety Equipment

AMERICAN OPTICAL COMPANY announces new industrial safety equipment which includes safety goggles, gloves, mittens, a cover-mitt, hand pads, a sleevelet, finger cots, spats, and ladder shoes. Descriptive literature about the 20 new products can be obtained by writing the company direct at Southbridge, Massachusetts.

"Vibro-Levelers"

"VIBRO-LEVELERS" is the title of a new eight-page bulletin, No. BU50, issued by Bushings, Inc., Coolidge at 14 Mile road, Royal Oak, Michigan, which gives information on a complete line of machinery mountings which are designed to stop transmission of vibration as well as provide a means of leveling the machines.

Also included are illustrated examples of how the Vibro-Levelers are employed to stop transmission of vibration from not only small equipment, such as bench grinders, but also from heavy duty equipment, such as punch presses and drop hammers.


Purchasing Agents to Meet

WHAT is claimed to be the most exhaustive clinic ever conducted by a business association on "shopping problems" will mark the thirty-first annual international convention of the National Association of Purchasing Agents, which will be held at the Stevens Hotel, Chicago, on May 27th, 28th, and 29th.

Government officials, nationally known economists and business leaders best acquainted with the current problems of merchandise and raw materials procurement will address the convention, as the capacity attendance of 2,500 visitors seek the answer to what the future holds in regard to the availability of supplies and materials, price stability, threatened inflation, government policies, and other questions that harry the purchasing agents in this early postwar economy.

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New Utility Construction

Columbia Gas & Electric Plans \$50,000,000 Expansion

A THREE-YEAR \$50,000,000 construction program for gas subsidiaries of the Columbia Gas and Electric Corporation was announced recently at the annual meeting by Stuart M. Crocker, president.

The program includes the drilling of more than 1,000 new wells, laying of 250 miles of pipeline, installation of compressor stations, development of underground gas storage, and construction of propane-air plants.

A. T. & T. to Expand

THE American Telephone and Telegraph Company and three of its affiliates recently were authorized by the Federal Communications Commission to construct more than 1,000 additional long-distance telephone circuits.

Permission was granted the New York Telephone Company to construct 479 additional telephone channels from Boston and New York to Chicago and points in between. Estimated cost is \$6,048,000.

The Illinois Bell Telephone Company was

authorized to add 479 telephone channels between New York, Chicago and St. Louis. Cost was estimated at \$2,152,000.

New Bedford Gas & Edison Plans Extensions

NEW BEDFORD GAS AND EDISON LIGHT COMPANY, a subsidiary of New England Gas and Electric Association, has been granted exemption from the provisions of § 6 of the Holding Company Act, the issue and sale of its notes payable to The First National Bank of Boston in amounts not exceeding in the aggregate \$1,000,000.

Proceeds from the sale of the notes will be used for proposed extensions, additions, and betterments to the plant and property of New Bedford.

\$12,300,000 Expansion Plan Announced

THE SOUTHWESTERN BELL TELEPHONE COMPANY will spend \$12,300,000 for expansion and improving its service in the Houston, Texas, area during 1946 and the following two years, J. B. Patterson, division superintendent, announced recently.

Mr. Patterson estimated that \$5,023,000 will be spent this year; \$4,052,000 during 1947, and \$3,252,000 in 1948.

We have an analysis entitled

The St. Lawrence Waterway and the Utility Investor

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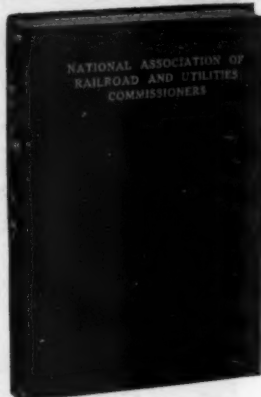
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The Treasury Department has published two new booklets to help you and your employees realize the utmost benefit from your Payroll Savings Plan.

"Peacetime Payroll Savings Plan" for key executives offers helpful suggestions on the conduct of the Payroll Savings Plan.

"This Time It's For You" is for distribution to employees. It explains graphically how this convenient, easy thrift habit works. It suggests goals to save for and how much to set aside regularly in order to attain their objectives.

If you have not received these two booklets, or desire additional quantities, communicate with your State Director of the Treasury Department's Savings Bond Division.



The Treasury Department acknowledges with appreciation the publication of this message by

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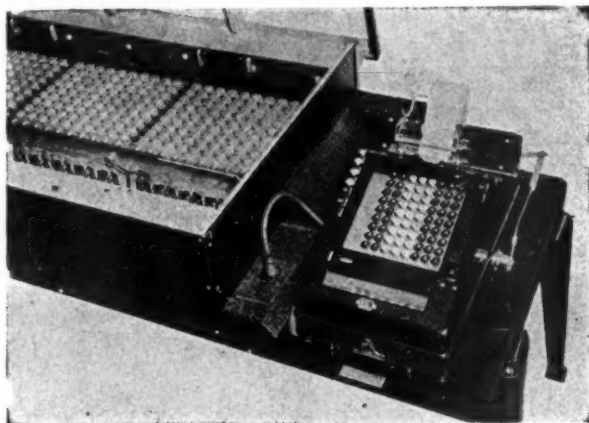
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